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EDITORIAL

IMPERIAL WEEKEND

Far from settling the conflict between the U.S. government and the Nicaraguan revolution, the dangerous and destructive House vote for 00 million in *contra* aid last week confirms it the issues of intervention and survival are l open, and that the stalemate in U.S. foreign licy that developed at the end of the Vietnam ar still holds. A dozen members' votes for or ainst intervention will not deter the strategists empire from their rambunctious course, nor ar the way for further conquest. We will hear re debates, endure more political manipuions and see more close votes before Nicaua is crushed or the United States returns to promises of its founding philosophy.

With half the Congress still committed to the truction of independence in Nicaragua, it hard to take seriously the celebrations of erica's own independence on this "Liberty ekend." The extravagant circus of events eduled for New York Harbor, the parties, quets and balls, the display of wealth and the w of patriotism have been concocted to exss an imperial pride which contradicts the aning and message of Independence Day. lging from the preparations that have been de over the past two years, the spectacle looks be more like a late Roman saturnalia or a adent fete in Louis XIV's Versailles than a edication of popular democracy and a rembrance of the immigrants' travail.

Before the next national patriotic extravaiza—the 200th anniversary of the Constitution, in 1987—it would be worthwhile to cut the hyperbole and return the cultural celebration to its democratic roots. The imperial style of the last summer Olympics, of recent presidential inaugurations and of the upcoming Liberty Weekend creates a solipsistic spirit of supremacy, which recognizes no one's independence but our own.

REAGAN'S TERRORISM
Ramsey Clark

GARLAND CASE
Kai Bird
Max Holland

STATUTE OF LIBERTIES
Marvin E. Frankel

THE CRIME CONTROL ACT
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MAO'S CHILDREN
Jerome B. Grieder

LONDON THEATER
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AMERICA MOVES RIGHT—I

BIG BUSINESS DESERTS THE DEMOCRATS

THOMAS FERGUSON AND JOEL ROGERS

In a community as fragmented and decentralized as American big business, profound reversals of opinion usually require considerable time. Because such changes are as much processes as events, assigning a single date to them almost inevitably courts misunderstanding. If such an effort ever makes sense, however, it does for the terrible recession of the early 1970s. Lasting seventeen months, from November 1973 to March 1975, it was by far the longest and deepest economic downturn the United States had experienced since the Great Depression. It was then that the great developments that eventually drove American politics to the right became dramatically evident.

Deteriorating U.S. economic performance in an increasingly competitive and integrated world economy is the analytic key to the Democrats' decline and the Republicans' corresponding rise. In a variety of ways sagging growth and profits at home and increased competition abroad made the business community more cost-sensitive. This stiffened business opposition to expanded social spending and forced the Democrats to work within tighter fiscal constraints on their domestic programs. Pressures on the social side of the budget intensified as growing U.S. involvement in the international economy, and particularly in the Third World, increased demands within the business community for greater military spending. Moreover, these competing claims on the budget could not be easily reconciled simply by raising taxes, for as profit margins narrowed and competition from abroad

(*Continued on Page 16*)

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LETTERS.

OBJECTIVITY AND THE RAND CORP.

Santa Monica, Calif.

Robert Sherrill praises *The Charleston Gazette* for questioning the objectivity of Rand Institute for Civil Justice studies on asbestos litigation, alleging conflict of interest through its funding sources and the affiliations of its governing and advisory board members ["One Paper That Wouldn't Shut Up," May 17]. Then he chides the press for not picking up from U.P.I.'s wire *The Gazette*'s story, which Rand had warned was inaccurate and defamatory.

Apparently, editors who had published accounts of the research at least a month earlier recognized that *The Gazette*'s lead was wrong—a lead that said Rand was "suggesting that a federal no-fault workers' compensation system, rather than the courts," arbitrate claims from asbestos victims. Editors weren't likely then to accept *The Gazette*'s inferences that supporters of Rand's research would reap financial benefits from a conclusion that Rand didn't reach!

The researchers actually concluded that "the critical problems that result from the tort system's handling of mass latent injury litigation have led some to advocate taking these cases out of the court system. But such proposals presume that alternative systems would successfully resolve the problems that beset the tort system, a presumption for which there is currently little empirical support, and which ignores the potential costs of giving up the positive aspects of the tort system."

Sherrill further noted *The Gazette*'s alarm over Rand's destroying data on asbestos litigation costs. Researchers (like journalists) often are accorded access to information under pledge of confidentiality. In this instance the choice was between getting good data under agreement to return or destroy it after full peer review, or getting none.

The institute's overseers are distinguished experts from plaintiff and defense bars, from labor and consumer groups and from academia, as well as from industry. Rand trustees, who have varied backgrounds, similarly represent disparate views.

Sherrill did not inform *The Nation*'s readers of *The Gazette*'s blundered lead, of the spectrum of interests represented on our boards or of Rand's account of the data. Nor did he check with us before rushing to print.

Yet we can still be pleased that Sherrill relied on data cited by Robert Hunter from studies of jury verdicts in Cook County and San Francisco. Hunter's source, which Sherrill neglected to mention: the Rand Institute for Civil Justice, which aims to improve the civil justice system by conducting objective, empirical research on its strengths and weaknesses to be used by all parties seeking such improvements.

Paul Weeks
The Rand Corporation

SHERRILL REPLIES

Tallahassee, Fla.

Paul Weeks is certainly correct about one thing: I didn't call him before writing my article for *The Nation*. And the slippery content of his letter shows why I didn't bother.

When you are dealing with the folks at Rand, you aren't dealing with dummies. They are smooth. Sure, the three Rand asbestos reports published since 1983 do contain disclaimers that their objective is not to destroy the present tort system; they offer some very sophisticated hedging.

But the overwhelming thrust of the reports is to discredit the tort system that has squeezed so many justified millions of dollars from Manville and other asbestos companies and from their insurers. The Rand folks don't come right out and say we should cut the tort system off at the legs. They prefer to employ the kind of blather heard from Gustave H. Shubert, Rand senior vice president and director of the Rand Institute for Civil Justice, in the institute's last asbestos litigation report: "Decisions concerning thousands of deaths, millions of injuries, and billions of dollars are entangled in a litigation system whose strengths have increasingly been overshadowed by its weaknesses."

Any moderately objective person who read the Rand reports would agree that they favor making it impossible to assess heavy punitive damages in asbestos cases (and other cases involving toxic substances), so that corporations like Manville will not have to bear financial punishment for killing and crippling thousands of people.

It often takes many years—twenty or thirty years is not uncommon—for a person to develop cancer or other physical problems as a result of exposure to asbestos. What does that situation prompt from Rand? In its last report it argues, "In cases of latent injury, when the objectionable behavior occurred decades ago, and especially when it is carried out by individuals long since deceased on behalf of companies that do not much resemble the firms now being sued, the applicability of punitive damages is called into question."

Got it? They want you to think that because Johns-Manville has changed its name to just plain Manville and because the previous generation of villainous executives has been put out on fat pensions or has croaked, the corporation has turned over a new leaf and shouldn't be heavily punished for the asbestosis surfacing today, but triggered years ago. That's what they mean.

Being tenderhearted when it comes to killer corporations, the Rand people argue that the present tort system allows punitive damages to get out of control. Enough's enough, they say, no matter how many people died under no matter what conditions: "There can be no even vague assurance that the social function of punitive damages has not been exceeded many times over, an undesirable result."

As a matter of fact the tort system has worked very well for asbestos victims (and would continue to work well for them if the asbestos companies were not allowed, as Manville has been, to hide behind phony Federal bankruptcy laws), and the financial supporters of the Rand studies are understandably scared silly that the success will spread. Deborah Hensler, leader of Rand's four-member research team that produced the last report, warns that "asbestos is the forerunner of a new kind of lawsuit"—"massive litigation that toxic substances can generate." That's why so many oil companies and chemical companies, as well as their insurers, are financial supporters of the Rand studies.

As for Weeks's argument that the institute's backers are a well-rounded lot, I'll quote from a *Gazette* editorial for my answer: "In 'An Overview of the First Five Years' for its Institute for Civil Justice, the Rand Corp. lists 168 current financial contributors. Almost half the contributors—76 to be exact—are insurance companies. Also the report lists 99 former contributors, over half of whom—52 to be exact—are insurance companies."

"Other contributors to Rand are primarily financial and industrial corporations, including chemical, oil and mineral companies."

Among the institute's 266 contributors is one labor organization, the A.F.L.-C.I.O. One.

On Rand's "Fact Sheet" list of the twenty-four members and twenty-four honorary members of the board of overseers, I count one from a consumer organization, one from the plaintiffs' attorneys, one current labor official and three former labor officials. Six out of forty-eight. You might say, as *The Gazette* does, that Weeks is "technically correct," but that's about all you can say.

Robert Sherrill

ADDENDUM

The author's note for Richard Falk's article, "Thinking About Terrorism," in last week's issue should have said that the piece was adapted from an essay in *Mad Dogs*, edited by Mary Kaldor and Paul Anderson and published by Pluto Press in association with European Nuclear Disarmament.

The Nation welcomes letters—typed, double spaced and no longer than 300 words, please. Letters may be edited for reasons of space.

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EDITORIALS.

Unleashing Bias

The Justice Department's ruling on the rights of AIDS patients doubles their distress by putting them at risk of discrimination at the same time that they are victims of disease. Assistant Attorney General for Civil Rights William Bradford Reynolds apparently overrode the objections of virtually every career lawyer and many recent appointees in his division to place the government on record against classifying AIDS as a handicap, which would have triggered the application of non-discrimination guarantees under Federal law. Even those who are not sick but who test positive for HTLV-III virus are denied their civil rights. In a single ruling, and against every shred of reliable medical opinion, the Justice Department has legitimized AIDS hysteria and has given employers, landlords, school administrators and social-service bureaucrats the right to create a pariah class of Americans.

In March the Department of Health and Human Services asked Justice whether AIDS patients met the 1973 Rehabilitation Act's definition of a handicapped person, that is, one whose physical impairment substantially limits one or more "major life activities." Until now it was believed that

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serious chronic infectious diseases, such as tuberculosis and virally induced cancers, were covered by the statute. No one argued that protection against discrimination allowed sick people to communicate their disease to others. If there is no significant danger of infection, however, those handicapped by illness should not be denied protection under the law.

The Centers for Disease Control and the Public Health Service, as well as private physicians in every major locality affected by AIDS, agree that the syndrome cannot be transmitted by casual contact and that it is, in fact, less communicable than many viral and sexually transmitted diseases. Some courts have ruled that children with AIDS, a growing category of victims, cannot be barred from school. But the Justice Department says that the fear of catching the disease is enough to sanction discrimination unless that fear is merely "a pretext for discrimination on account of handicap." Furthermore, a positive antibody test result may be a legitimate ground for discrimination. The person with AIDS, or the one who is seropositive for the virus, must prove that he or she is not contagious and that the discriminatory act was motivated purely by prejudice due to the disability. Patients would then have to pursue their rights through the Reagan court system, not an optimistic prospect.

While certain sympathetic officials in Health and Human Services and other government bureaus try to get Reynolds to soften his stand, the impact of the ruling is being discussed and analyzed throughout the medical and the civil liberties community. First off, it's clear that the government's position has implications that go beyond AIDS. In the past few years, and often as a result of AIDS research, scientists have lengthened the list of diseases known to be caused, or in some way induced, by infectious agents. Ulcers, some leukemias, many other cancers and perhaps multiple sclerosis and auto-immune disorders seem to be linked to infection. Within a few years, it may be possible to detect genetic markers in otherwise healthy individuals for a range of illnesses that will produce handicaps and serious functional impairments later in their lives. Logically, anyone with an infectious disease or with a marker for a disease may be subject to sanctioned discrimination, at least under the Justice Department's AIDS guidelines. Legal and medical counselors are already advising clients in high-risk categories to refrain from taking the AIDS virus test, which offers no help in treatment and which may well be used to discriminate against them in work, residence, education or health care.

The hysteria that infected the country last summer after Rock Hudson's death and the exclusion of pupils with AIDS from certain schools had been subsiding somewhat before the Justice Department raised the political red flag. Still, discrimination against AIDS victims is widespread. Many nursing homes refuse to admit or keep patients with the disease, and some hospitals have been throwing their AIDS cases out on the street. In Florida, hospitals have put patients on planes and shipped them to California. All of these institutions receive Federal funds, and all are prohibited from discriminating against the handicapped. As a result of the Justice Department's ruling, those with AIDS will be severely restricted in seeking redress.

Local antidiscrimination laws may still apply to AIDS patients, but thousands of very sick people are likely to get caught in the crossfire between a prejudiced and vindictive Administration and a more sympathetic but vulnerable local service bureaucracy. And if anyone hopes for a remedy, someday, somehow, from the Supreme Court, note that Charles Cooper, the civil rights division lawyer who wrote the ruling, used to clerk for the designated Chief Justice of the United States.

King Cohn

Although we prefer to kick people when they are up, in the case of Roy Cohn, who has made a career of kicking people when they are down, we will make an exception. Last week a five-judge panel of the Appellate Division of the New York State Supreme Court disbarred him on four counts of professional misconduct.

Although the panel harshly criticized Cohn's misfeasances as an attorney, his most famous crimes were moral and political and go back to the days when he was one of the prosecutors of Ethel and Julius Rosenberg, engaging, at a minimum, in improper ex parte communications with Judge Irving R. Kaufman. He went on to new heights, or depths, as chief prompter to Senator Joseph McCarthy, sparking the opportunistic Congressional investigations that whipped up cold war hysteria and wrecked countless lives and careers.

The image of Cohn whispering in Senator McCarthy's ear will perhaps be the indelible one of his life. It suggests that his historical role has been that of an Iago, urging others on to evil deeds. His subsequent career as a shark lawyer, however, displayed none of Iago's perverse idealism. It was, rather, that of the mercenary opportunist who perceives no constraints from inside his insulated world of stretch limos, penthouse views, tables at power restaurants, money flowing in through sheltered conduits. The irony is that he was as vulnerable as any other venal shyster or Parking Bureau ticket-fixer.

Cohn is no dark exception in a benign system. He is what is known in Mob parlance as "connected." One of his law partners was Stanley Friedman, the Bronx political boss who is mired in the scandals swamping Mayor Edward Koch's administration. Another Cohn partner, Thomas Bolan, is the man through whom the Reagan Administration clears its judicial appointments in New York State. Cohn engaged in some ex parte judicial selection of his own when he torpedoed the nomination to the Federal bench of William Hellerstein, whose greatest sin, from the Administration's viewpoint, was his distinguished service as a poverty lawyer. Collectively, Cohn and his associates symbolize the corruption of a private system run by insiders and power brokers rather than by the people. That he was eventually toppled is less an affirmation of that system's integrity than it is an argument for an independent judici-

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ary—which President Reagan, his Attorney General and loyal agents like Bolan are doing their best to undermine.

Libyan Epilogue

Ronald Reagan understands the uses of terrorism. The air strike he ordered against Libya demonstrates that far more powerfully than press accounts available to Americans revealed. A short trip I made to Tripoli last month leaves no question about the purpose of the bombing.

There were three main targets in the Tripoli area. The first was Colonel Qaddafi. In the large compound where he lives while in the capital, and where he was the night of the bombing, two multiton bombs shattered the wing of the building in which he had an office and often worked late at night. Two bombs struck the field where a tent in which he often slept was pitched, collapsing it. Two bombs gutted the large house in which his family lived. These were the three locations where Qaddafi could reasonably be expected to be at 2 A.M., the time the U.S. planes first struck. No other areas within the several-hundred-acre compound were hit by the big bombs. The bombs were intended to kill Qaddafi and show the Libyan people the omnipotence of the U.S. military.

The second target was a congested, densely populated, albeit well-to-do residential section of Tripoli. Big bombs destroyed homes in at least six places. An entire family of seven was killed instantly by a direct hit on their apartment. A 29-year-old father of three was killed when he went to a window to see what was happening. His wife and children were injured. A Greek citizen's home was destroyed and his family injured. An 18-year-old Lebanese woman, on a brief holiday from school in England, was killed. The home of a longtime employee of an American oil company was hit, causing one death in the family.

There are various estimates of the total number of dead and injured. Hospitals in Austria, Italy and Switzerland are treating scores of survivors who lost arms, legs and eyes, and sustained the other injuries modern conventional bombs are capable of inflicting; Libyan hospitals are overflowing. The French Embassy stands completely empty, its rear exterior wall demolished and its interior destroyed by a bomb which leveled the home immediately adjacent to it. The bombs were presumably intended to show Libyans with power that the United States will kill them, too—that no place is safe.

The third target was a naval training school about twenty-five miles west of Tripoli. There were casualties and extensive damage to buildings. Two West German professors who taught at the school have stated they knew of no secret naval weapons or military planning there. These bombs were intended to warn Libyan naval personnel to stay away from the Sixth Fleet—that the United States has the capacity to crush all enemies.

Panic in the aftermath of the bombings also took lives. One fiery crash of two automobiles crammed with people fleeing south to the desert killed seven, according to two horribly burned survivors I met at a hospital in Vienna. A man whose daughter was killed and who himself was apparently saved by a door that blew open and kept the ceiling from falling on him lost thirty-five pounds and is going to Europe for therapy. Parents talk of children who scream in the night; husbands, of wives who are unable to sleep. No one I spoke with had expected the United States to bomb Libya.

The sudden and unexpected attack terrorized the people because they had not experienced anything like it since World War II. Their shock, grief and anger are profound. Many older people were stunned that the United States, of all countries, would bomb them. On walls and billboards are posters and signs condemning the United States. Many young people told me they hate America because of the bombing. A boy of 6 who saw his father die in his home said he would kill Reagan when he grew up. As I left Tripoli for the airport on June 18, the streets were jammed with automobiles, trucks, buses, motorcycles, bikes and pedestrians on their way to a rally Qaddafi was supposed to address.

The day before, I spoke with Qaddafi, who had just returned to Tripoli. A reception room on the far side of the building that contained his old office had been repaired since the bombing. Like his home, his office remained in ruins. The field where his tent had stood was empty. There were two large sandy spots where the bomb craters had been filled. He spoke calmly and quietly but with deep anger. He said he never believed a civilized nation, a superpower, would attack a foreign leader and his people as the United States had done. He expressed shock that such a bombing would have been directed at a residential area. His words for Reagan, as translated into English, were virtually the same words we have heard the President use when speaking of Qaddafi. He emphasized Reagan's violent nature, America's immature culture, its uncivilized, barbaric character. History will decide whose appraisal is more nearly right.

Reagan's raid, called a surgical strike, killed at least twice as many Libyans in one night as all Americans killed by terrorists worldwide in 1985. The President seems to be proud of what he ordered and of the "heroes" who carried it out. His one-liners are vintage Hollywood: "We didn't aim to kill anybody." He should tell that to a judge.

Unless it is lawful for the President to use military bombers in an attempt to assassinate a foreign leader and to kill and mutilate scores of human beings sleeping innocently in their homes thousands of miles and many days from any claimed act of provocation, of which they probably were never aware, then Ronald Reagan must be impeached and tried for high crimes and misdemeanors. It will be interesting to see whether the elected representatives of the American people, all of whom will proclaim the virtues of our Constitution during its bicentennial year, will dare to do their duty.

RAMSEY CLARK

Ramsey Clark, former Attorney General of the United States, was in Libya for The Nation *and at the request of families of victims of the bombing.*

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BEAT THE DEVIL.

The African Drag Queen

Halfway through June a number of stories found their way into the U.S. press suggesting that Colonel Qaddafi was in bad shape, adducing sex as evidence in a manner that would have entranced Foucault. On June 17 the *New York Post* said flatly that Qaddafi's "deterioration is shown in his behavior during a meeting with visiting African diplomats, whom he greeted while dressed in women's clothes—including makeup and gilded high heels." The *Post* ran a touched-up picture of the colonel as he "might look" replete with earrings, eyeliner and lipstick. Pondering the colonel's sexuality in a more decorous manner in *The New York Times*, Judith Miller said that Qaddafi had made an "abrupt sexual advance" to three of five female U.S. journalists whom he had invited to a chat back in the spring. Qaddafi-as-woman is a logical idea for the *Post*, melding its pet concepts of Arab hysteria and female irrationality.

One More for Westy

Somewhere near the end of the CBS–Westmoreland libel trial, early last year, I had a brisk little argument about the case with my old friend Renata Adler. Adler, who'd paid a few visits to the courtroom, made it clear her sympathies were emphatically not with CBS. This had been Adler's view at the start of the trial too, and now, with two lengthy articles in *The New Yorker* for June 16 and June 23, she has spelled out her conviction once more that CBS and its producer George Crile were horribly at fault, just as *Time* was horribly at fault in its treatment of Gen. Ariel Sharon.

I'm not concerned with the *Time*–Sharon case here, though I wish someone would look at Judge Abraham Sofaer's conduct of the case in light of his subsequent career, but Adler's reflections about CBS and General Westmoreland should be addressed because they revive the Westmoreland crusade, as hard to kill off as Rasputin.

Now, it was the proposition of the CBS program that the U.S. military command in Saigon, headed by Westmoreland, had insisted that the C.I.A. drop some N.L.F. "irregulars" from the enemy Order of Battle and relegate them to a footnote in the intelligence estimate, thus misrepresenting the progress of the war. An ancillary charge was that in the months before the Tet offensive Westmoreland refused to accept indications of a vastly increased infiltration of North Vietnamese Army regulars into the south.

Westmoreland sued CBS. The case effectively ended when the defense called Westmoreland's intelligence chief, Gen. Joseph McChristian, and his Order of Battle chief, Col. Gains Hawkins. Both men testified that Westmoreland had blocked their estimates. Telling the press that he was shaken by their statements, Westmoreland dropped his suit soon thereafter, under the pretext of a settlement "satisfactory to all parties."

Adler converts all this into the saga of a man wronged by "preposterous 'journalism.'" To buttress this thesis she indulges herself with reportage that is truly preposterous and even shoddy. The errors are profuse, right from her initial description of the CBS documentary, which she says "consisted largely of interviews conducted by Mike Wallace." In fact Wallace conducted three interviews, and Crile at least seven. The strength of her animus against Sam Adams, the C.I.A. analyst who first generated the estimates of irregulars, apparently rendered her incapable of reading court records. She says that "his arguments were not accepted within the CIA," even though testimony confirmed that Adams's analysis became the C.I.A.'s institutional position until the agency ultimately backed down, after a great battle with the rest of the intelligence community. On the matter of N.V.A. infiltration she says categorically that "in all his 'lists,' 'chronologies,' and other notes he [Adams] had never once . . . so much as mentioned the more than a hundred thousand North Vietnamese" infiltrators. Neither Adler nor the vaunted *New Yorker* checkers seem to have examined numerous mentions, including Adams's Order of Battle chronology, lodged as Joint Exhibit No. 47, which has on its ninety-fourth page "100,000 more men" in capital letters. Other errors creep in when she uses Don Kowet's famously prejudiced and inaccurate book instead of the court record. In the fury of her assault on Crile she ignores the thrust of testimony and—as in the case of Greg Rushford—excerpts from it in a manner that totally distorts its meaning.

One of her strategies, deriving from a familiar right-wing theory, is to suggest that the press rallied to CBS. This is nonsense. Much of the reporting on the trial, by such people as Myron Farber of *The New York Times*, was conspicuously friendly to Westmoreland, as I pointed out here at the time. Listen to Adler once more:

> But the intensity of interest was greatest by far on the part of members of the most radically anti-war factions of the press. When I asked one of the best of these reporters why he attached such immense importance to the question of whether or not village defense and self-defense units were included in the Order of Battle, he replied that the whole point lay here: that the trial would show the world that American imperialism was fighting not an army but a whole people in that war.

Aside from the insinuation that Judge Pierre Leval's courtroom was thickly populated with lefty scriveners, which it certainly wasn't, this paragraph seems to be based on an encounter with my brother Andrew, who is not given to talking about American imperialism in my own abandoned fashion and who was not reporting the trial but attending it in connection with his forthcoming book on intelligence analysis. I remember him telling me he had met Adler. As he recalls it:

> I met her outside the courtroom and we had a chat. She seemed unclear about what she was doing about the trial or what to think. I suggested that one interesting angle so far undiscussed was the fact that the central issues of the trial, whether or not the Vietcong irregular guerrillas should have been included in the enemy Order of Battle, actually goes back to one of the central arguments over the Vietnam War at the time, which was whether it was a people's war or not. I imagine I am the person she is referring to, but her conversion of the conversation into that paragraph is very silly.

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ALEXANDER COCKBURN

Adler never called my brother to compare his memory with hers. (And she has preached in the past against the use of blind quotes, writing—correctly—in *The New York Review of Books* back in 1977, "The use of the blind quote and the unnamed source has become an unprofessional cover for various journalistic cut corners and evasions.") But that was a matter of a paragraph. She never called George Crile or Sam Adams, even though her articles savage both men at great length and brood harshly on journalistic arrogance. (*The New Yorker*, incidentally, does not print letters from readers.) Adler's presentation of courtroom exhibits and testimony is misleading and cannot be relied upon. But how does she get around the central difficulty of Westmoreland's withdrawal from the suit? Easy. He didn't have the right lawyer. The right lawyer was not Dan Burt of the Capital Legal Foundation but David Dorsen, who was brought in to assist Burt. This is not the first time that we've seen the "if only Westy had Dorsen" line. For obvious reasons Dorsen had suggested as much in an interview with *The American Lawyer*. He was once on the staff of the Watergate special prosecutor, which is presumably where Adler met him, while doing her own Watergate research.

The sad thing is that Adler seems to think that "the left" took the CBS-Westmoreland trial seriously and endorsed the original broadcast. The left—so far as I've talked to it—didn't like the Crile broadcast and felt no particular sympathy for CBS. The Westmoreland case was always a right-wing crusade, still being fought by Adler with such errant passion.

Buckley, Decter and Sobran

I've been waiting to see what William Buckley would do about Joseph Sobran. The former's acrobatics in seeking to salvage both Sobran and himself have surpassed all expectations. You'll recall from my column here of June 7 that Sobran, one of the columnists for Buckley's *National Review*, had spoken in the highest terms of *Instauration*, a racist publication which had spoken warmly of Sobran. *Instauration* is anti-Semitic, calling the "Holohoax" a "gigantic hebe soap opera," and has said there will be no black progress "until someone tells us how you can get inside genes and do a little redesigning." Sobran wrote that *Instauration* is "an often brilliant magazine, covering a beat nobody else will touch, and doing so with intelligence, wide-ranging observation and bitter wit."

Sobran has been bothering other people, including Midge Decter. In mid-May she wrote to Sobran, spelling out her "shock and disgust—and contempt—at the discovery that you are little more than a crude and naked anti-Semite." She cited some columns by Sobran, at least one of which, on Jews and the Pope, seems on her account of it to have been quite clearly anti-Semitic. Decter sent copies of this letter to, among others, William Buckley, Arnaud de Borchgrave, R. Emmett Tyrrell, and Michael Novak, whose own kindly treatment of members of the wartime anti-Semitic Slovakian government has been discussed here in the past.

Sobran never responded to Decter, but Buckley wrote back, defending Sobran and denying that he was a "crypto or even a latent anti-Semite," stating, "If I thought him an anti-Semite, I would ask for his resignation from National Review." He added that if Decter had addressed her letter to someone who truly was a "crude anti-Semite, then you cast doubt over the judgment of a large company of sensitive men and women who collaborate joyfully and appreciatively with Joe [Sobran] in the anti-communist enterprise in which you play so vital a role." Decter wrote back in mollified terms and, ever gentle to fellow conservatives, admitted the error of having addressed Sobran's person rather than his words (an odd distinction). She received a final letter from Buckley on June 2 which said, "Please don't ventilate this, but I think we can be assured that he will let the topic of Israel go, and that there will be a creeping perspective in the next period." Buckley added that he was convinced that Sobran now "understood the social point," that is, in attacking Israel.

You'll note that what started as a discussion of Sobran's anti-Semitism modulated into a discussion of how to treat Israel, as a matter of etiquette. The fact that there is sound evidence—*Instauration*—that Sobran is anti-Semitic to the extent that he's a keen admirer of an anti-Semitic magazine is ignored. Thus, Buckley can position himself as a friend of Israel anxious to restrain a man who has been committing errors of taste, rather than as the forgiving sponsor of an anti-Semite, sufficiently hypocritical to attack *The Nation* even as he was taking a modified hangout position on Sobran in the *National Review*. So far as the right is concerned, anti-Semitism is forgiven just as long as criticism of any Israeli government or of Zionist policies is regarded as off-limits.

Footnote: On the identification of anti-Zionism with anti-Semitism, a favored technique with which to harass critics of Israeli policies, a sentence in an editorial in *The Nation* for June 21, apropos the Waldheim affair, may have confused readers: "Some Europeans and many in the Middle East have used it to get more mileage out of their own anti-Semitism or anti-Zionism, whichever is more useful at the moment." This struck me as taking *The New Republic*'s line that anti-Semitism and anti-Zionism are interchangeable, depending on the exigencies of the moment. Big Vic tells me that the purport of the lines was not a general judgment but merely a reflection on unspecified persons in the areas mentioned. On the topic of *The Nation*, I had considerable problems with Richard Falk's article in last week's issue, which—aiming to present a left position on terrorism—ended up entirely submissive to the prevailing discourse on "terrorism." Once you choose to fight on the enemy's terms, you end up accepting them. Anyone who can write, "At this stage, it would not be helpful for progressives to reject the moderating effects of the Atlantic alliance," or "We are all terrorists to the extent that we receive pleasure from witnessing the pain and suffering of others" is in line for the Anthony Lewis Award, namely a woolly mitten fitting tightly over the brain, to be worn at all times.

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CAPITOL LETTER.

KAI BIRD AND MAX HOLLAND

The Garland Case

In 1981 Lillian Garland, a receptionist at the California Federal Savings and Loan Association in Los Angeles, became pregnant. She gave birth in February of the following year. When she was ready to go back to work, six weeks later, her employer told her the position had been filled and refused to offer her another job. The bank's action violated the 1978 California Fair Employment and Housing Act, which states that employers must provide up to four months unpaid leave for any "female employee affected by pregnancy, childbirth or related medical conditions."

The loan association filed suit in Federal District Court, charging that the state law contravened the Pregnancy Discrimination Act and Title VII of the Civil Rights Act. The court agreed, ruling that the state law required preferential treatment of female employees, and so violated the P.D.A.

An appellate court reversed that ruling, and the case will be heard by the Supreme Court, probably this autumn. The National Organization for Women, the American Civil Liberties Union, the League of Women Voters and the National Women's Political Caucus have filed amicus curiae briefs that argue against any preferential treatment for women. They seek to persuade the Court that Title VII requires California employers to comply with both the state law and the P.D.A. by providing "unpaid leaves of absence to all disabled workers," men and women. Critics of this strategy say it will encourage the Justices to invalidate the California law rather than order such a sweeping social reform.

The case has pitted "equal treatment" feminists against those described as advocates of "special treatment" for women. Lucinda Finley, an associate professor at Yale Law School, casts herself with the latter group, though she dislikes both terms. "Pretending men and women are the same is not equality," says Finley. "And the label 'special treatment' suggests a misunderstanding of the nature of childbirth and parenting, which affect men and children as well as women. . . . The equal treatment argument, carried to the extreme, tries to defy social reality, particularly among poor women. The social reality is that there are a lot of women out there in need."

The debate has been provocatively framed in Sylvia Ann Hewlett's new book, *A Lesser Life*. Hewlett severely criticizes NOW's position on the Garland case, charging that the amicus briefs will sabotage a law that provides an immediate material benefit to a large number of low-income working mothers for the sake of purist egalitarian principles that apply to only a tiny minority of well-paid, professional women.

Both sides in the debate would like to see guaranteed parental leave for either the father or mother, and a bill requiring just that is now before the House and has a fair chance of passing [see Nadine Taub, "A Public Policy of Private Caring," *The Nation*, May 31]. But even if parental leave is mandated in the near future, the equal-treatment versus special-treatment argument will not end. Finley points out that legislators may wish to establish longer leaves, or paid leaves. Women are asking their employers for time off during the workday to breast-feed. And there are already what might be called special-treatment laws on the books, such as the WIC program, for which only pregnant and nursing women are eligible.

The United States is far behind other nations on the matter of maternity benefits. Currently, 117 countries provide some form of maternity leave. Women make up 45 percent of the work force in this country, and 90 percent of them have or will have children. Yet more than 60 percent of these women have no guarantees that the job they leave for childbirth will be there when they return. American women still endure such work rules, say "preferential" feminists, because of the feminist movement's focus on "rights" rather than on concrete measures to improve the welfare of working women.

The equal-treatment faction's position is summed up in the A.C.L.U.'s brief in the Garland case:

> Protectionist laws reflect an ideology which values women most highly for their childbearing and nurturing roles. Such laws reinforce stereotypes about women's inclinations and abilities; they deter employers from hiring women of childbearing age or funnel them into less responsible positions; and they make women *appear* to be more expensive, less reliable employees.

That argument has considerable merit. Certainly the California maternity law encourages some employers to shy away from hiring women. But Finley counters that employers who discriminate against women would do so even if an all-inclusive parental leave law were enacted by Congress. The remedy, she says, is to prosecute cases of discrimination under Title VII.

Susan Ross, a professor at Georgetown University Law Center who signed the NOW brief, says, "Special breaks hurt women in the long run." As an example she points to a section of the California maternity law that allows employees to withhold health insurance from pregnant workers. "Once you say pregnancy is different from other disabilities, then you're forced to begin the horse-trading. These kinds of measures ultimately keep women in dead-end jobs."

Rosalind Rosenberg, an associate professor of history at Barnard College, is not convinced: "There are competing considerations. Do the benefits conferred outweigh the risks of stigmatizing women? I think maternity benefits are well worth the risks." Ross, on the other hand, says that the advocates of special treatment have given up on equality. "They look around and say, 'Well, we can't get equal treatment, so we'll get what support we can for women in childrearing.' It is a much less threatening position to take because it doesn't require men to take any more responsibility for child care than they do today."

Nevertheless, the arguments raised by those who advocate special treatment challenge the feminist establishment and have begun to attract support. Special treatment may have restricted women's access to the workplace in the past, but it has the potential for building new political coalitions in support of benefits for working mothers and their families.

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ARTICLES.

STATUTE OF LIBERTIES

Anyone for the Bill of Rights?

MARVIN E. FRANKEL

In the throes of the Statue of Liberty centennial celebration in New York Harbor and the traditional festivities associated with Independence Day, the country will be awash in patriotic symbolism over the holiday weekend. The word "liberty" will be on every orator's lips, and the allure of the lady in the harbor to the immigrants who came to this country will be tirelessly extolled.

But when the spotlights trained on the statue are switched off, and the sails of the tall ships furled, and the red, white and blue bunting torn down from thousands of Fourth of July rostrums, and the beaches and parks deserted, we will confront again the gray truth that civil liberties and civil rights are not very popular in the land of the free.

Ours is, after all, the country whose Attorney General called the American Civil Liberties Union a "criminals' lobby." To be accurate, he was not Attorney General when he uttered those words but merely a chief White House aide, serving in an Administration that has run up one of the biggest civil rights deficits in recent history. And in what is not, alas, a simple coincidence, it is also an Administration that has garnered some of the highest approval ratings in the institutional memories of Gallup, Harris and Roper.

The sad fact is that those of us who care about the Bill of Rights are a distinct minority—and an unpopular one at that—in what the Rev. Jerry Falwell calls "these United States," presumably to make clear he don't mean all them other United States.

It's not good news that we're a minority; in fact it's not news at all. Not to rub it in but only to direct attention, consider what a great many of our fellow Americans think of us:

They think we're solemn, self-righteous, elitist and condescending.

They think we're cranks and troublemakers.

They can't see why anyone would want to crush the yearnings of little kids to pray in school, or would fight against having a crèche in a public square. Let me say, parenthetically, that the critics are nonsectarian. Many of my fellow Jews asked me during some recent encounters over a crèche on a public circle in Scarsdale, New York (ending 4–4 in the U.S. Supreme Court), "Why kvetch so about a crèche?"

We're seen by many as worse than cranks for constantly trying to spring depraved criminals from prison on technicalities—technicalities like coerced confessions, illegal searches and denials of a competent lawyer.

We're at best a damned nuisance and at worst a threat to the nation. If we had our way, the critics claim, no one would be safe on the streets or in their homes, and life wouldn't be worth living.

Testing the critical pulse, I've been studying Falwell's philosophical book, *Listen, America!* I assume you are familiar with his main thesis: "The hope of reversing the trends of decay in our republic now lies with the Christian public in America." Stronger than Edwin Meese on the subject of the A.C.L.U., he has said elsewhere that it is led by "thugs," and is "the most destructive threat to our traditional American way of life." His book is filled with citations and quotations from leading authorities, in the following order:

Scripture
Jesse Helms
Milton Friedman

Having described the author's scholarly apparatus, let me summarize what he has learned from his studies. The fate of Sodom and Gomorrah awaits us, he says; we will be ruined if we heed the liberals, the pornographers, the abortionists and the socialists, just as Rome was ruined when it "allowed Greek teachers to corrupt her society with humanism."

Without trying to parse that arcane reference to "Greek teachers" (Greeks who taught? Teachers of Greek?), we know that the devils' assemblage ranging from "liberals"

DRAWINGS BY GIORA CARMI

Marvin E. Frankel is a practicing lawyer and former Federal District judge. This article was adapted from a talk he gave to the Westchester Civil Liberties Union in White Plains, New York, as its honoree.

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What do the following people have in common?

Ed Asner, Studs Terkel, William Winpisinger, Daniel Ellsberg, Rep. John Conyers, Maggie Kuhn, Rep. Ted Weiss, Ruth Messinger, Staughton Lynd, Gloria Steinem, Mayor Harold Washington, Frances Moore Lappé, I.F. Stone and 30,000 others.

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to "humanists" is where civil libertarians are found by Falwell and too many others. It is not only the Silent Majority of Richard Nixon's day, which was never silent, or its descendants in the Moral Majority, which is probably neither moral nor a majority, that should concern us. It is the likelihood that our commitment to civil liberties is indeed a minority position.

Why is that so? What must we do? How have we reacted to the attacks by the Falwells and the Meeses and the Helmses, and to the less strident antipathy of the multitude who know in their hearts that we're all wet? I think our reactions tend to sustain at least those parts of the indictment that accuse us of being self-righteous, condescending and elitist.

Instead of being astonished that our beliefs are rejected by a great many of our fellow citizens, we act as if such an attitude were inevitable. At most our response to the hostility so many Americans express toward the charter of their and our liberties is a wry chuckle. I don't know exactly how one makes a wry chuckle, but the concept reflects an attitude too common among us that may fairly be condemned as condescending.

Too many of us resign ourselves too much of the time to the idea that we will always be a minority. We tend to take pleasure in the fact that the Bill of Rights is an antimajoritarian document. Technically, of course, it is. The great constitutional rights are truly protections against majority pressures and majority power. The rights to free expression, freedom of religion and the due process of law are not subject to modification or repeal by majority vote.

But it isn't enough to say that the Bill of Rights is so great and secure that we can count on unelected judges to preserve it. As we're seeing now, and have seen before, the judiciary may not always be a dependable resource. But even if judges were more predictably in our corner, it is a mistake to rely almost exclusively on the courts.

Most of us have heard or said that the Bill of Rights, if placed before the electorate, would probably be voted down in whole or in large part. That evokes more wry chuckles. But it is no chuckling matter. We ought to be appalled that we haven't been able to sell that great covenant to a majority of the American people. Those fundamental values aren't good for only the cognoscenti. They're not caviar for the general. They are cardinal protections and liberating principles for all the people. The failure to tell that vital story—to sell it, if you will—is both a reflection on and a challenge to us as we prepare to move into the third century of the Constitution.

We should campaign for the Bill of Rights. We should show people how marvelous it is, in ways that are attractive. We need to find means of persuasion that will reach and touch masses of people. The enemies of our rights are already doing that. Every week millions of people watch slick performances by television prophets who tell them how wonderful it is to surrender their mind and their freedom to one or another dogma. The fundamentalists use every media trick to exhort Americans either to follow their one true God—and thereby acquire money, sex appeal and membership in the club—or go straight to hell.

We must win a majority for the Bill of Rights in an election that must be fought and won over and over again.

While I have contrasted the electoral process with the courts, the two are interrelated. Mr. Dooley meant to be a little arch when he observed that the Supreme Court follows the election returns. But we must never shut our eyes to the reality and, perhaps, the necessity of the Court's caring about those returns. We wouldn't have the disgrace of capital punishment, and a majority of the Court upholding it, if a vocal majority of the people weren't persuaded it's good for them and good for the country to have the government murder people.

Having emphasized the need for salesmanship, I invite more imaginative people to think up ways of doing the job. Fertile minds should be able to come up with all kinds of possibilities. Some have occurred even to me. I would like to see T-shirts, comic strips, bumper stickers and television spots highlighting the blessings of the Bill of Rights. We need deeper and more serious appeals as well. We need more books to tell of these wonders, especially to the young. There must be poems and dramatic celebrations. A great Broadway musical celebrating the bicentennial of the Constitution should be staged next year. I am not capable of writing the music or the lyrics or the book, but I am available as a technical consultant. Until I'm called, I've been thinking of a possible line or two. I've come up with a title for a song about the First Amendment: "Talk Ain't Cheap, but It's Free." For a small overstatement, taking a little license, I offer "You Can't Overdo the Process That Is Due."

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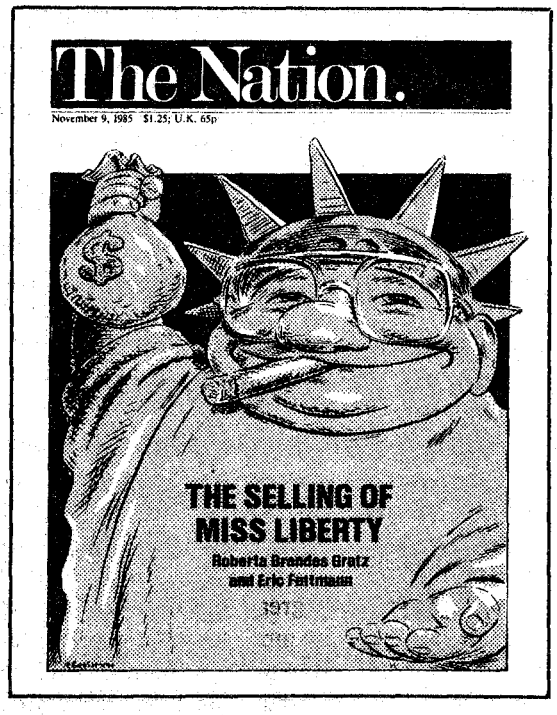

This issue of The Nation broke the story of the corporate takeover of a national monument. It tells how Lee Iacocca and a group of businessmen assumed control of the campaign to restore the Statue of Liberty and Ellis Island. More than an expose, the story raises questions about private initiative and the public good in the age of Reagan.

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Revealing myself as an anachronism, I suggest a couple of new dance numbers: the Bicentennial Rock and the Bill of Rights Rag. None of my ideas for a title for the show overwhelm even me. But if I had to choose one right now, I'd settle for an old but well-loved cliché like *Let Freedom Ring*. □

COMPREHENSIVE CRIME CONTROL

A Democratic Retreat

ROBERT L. WEINBERG

While Gramm-Rudman restrictions may be wreaking havoc with the American constitutional appropriations process for fiscal 1987, we are already starting to pay the cost of what the appropriations process for fiscal 1985 did to restrict American constitutional and individual rights. Because of the election eve passage in 1984 of an innocuously titled "Joint Resolution making continuing appropriations for the fiscal year 1985, and for other purposes," more Americans, both guilty and innocent, are being incarcerated, and will spend more time in more jails for years to come.

The "other purposes," attached by House Republicans' astute parliamentary maneuvering on the eve of the last Congressional elections, included a grab bag from prosecutorial wish lists, now known as the Comprehensive Crime Control Act of 1984. Then-Attorney General William French Smith called this act "a historic measure, the most far-reaching, substantial reform of the Federal criminal justice system ever enacted by the Congress." If one substitutes the neutral term "amendment" for the value-charged "reform," the Attorney General's description is a telling summary of what was done.

Under provisions of the Comprehensive Crime Control Act, many Americans are being jailed by Federal magistrates without being granted the right to bail—a right that had been recognized since the first Congress in 1789. For this historic right, the ninety-eighth Congress in 1984 substituted the concept of "preventive detention." This permits a defendant—constitutionally presumed to be innocent unless and until tried and found guilty by a jury—to be kept in jail before trial if a Federal magistrate finds from hearsay evidence, or even from the proferred statement of a prosecutor, that he is dangerous to the community. Many magistrates are so finding. If the detained defendant is later acquitted, or the charges against him are dismissed, no recompense is given for the weeks or months spent in jail awaiting trial. Furthermore, as practicing lawyers well

Robert L. Weinberg is a practicing criminal defense attorney in Washington and a former president of the District of Columbia bar. He has also chaired a Democratic Party Congressional district committee.

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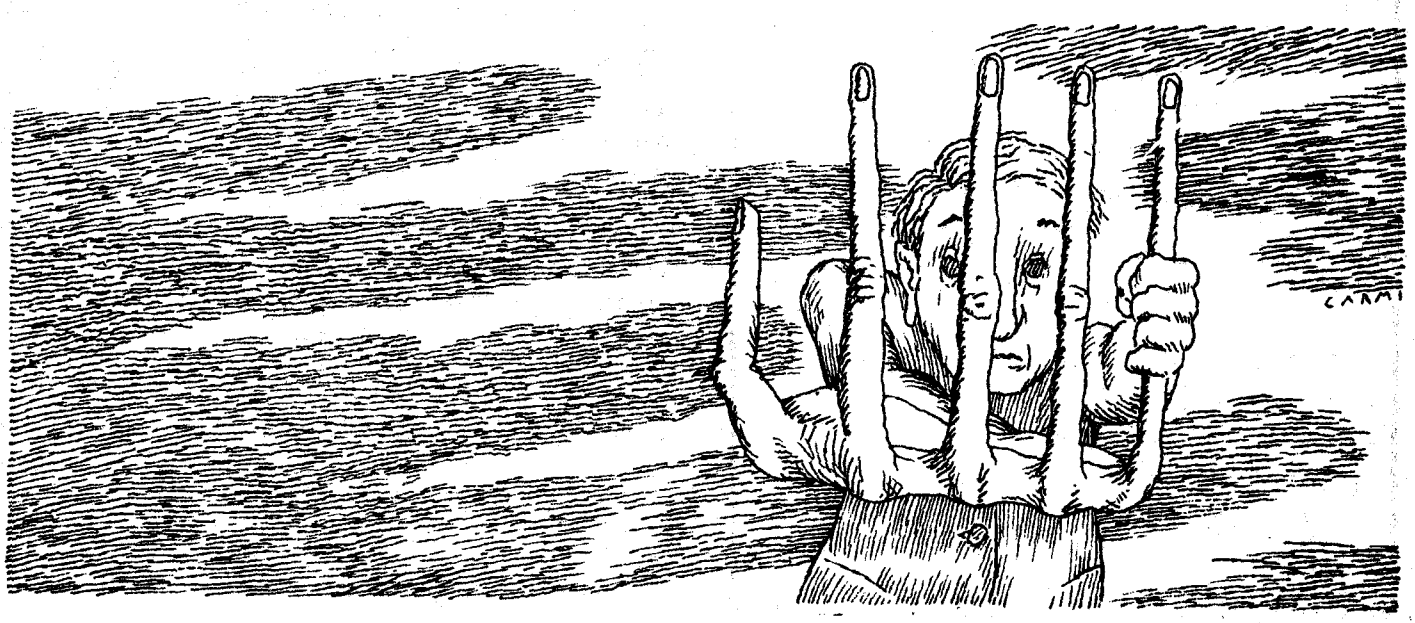
know, the defendant who is not at liberty before trial to assist in preparing his defense and who is cut off from his job and community ties is less likely to gain acquittal from a jury or be placed on probation by a judge. Already the act has increased by one-third the number of Federal prisoners in jail awaiting trial. As a result, the United States Marshals Service has reported to Congress, the overcrowding of jail facilities has produced a crisis.

Many persons convicted and sentenced to Federal prisons, after the Comprehensive Crime Control Act becomes fully effective next year, will spend more time in confinement than persons convicted of the same offense today—with the longer sentences in overcrowded human warehouses decreasing the already slim chances for rehabilitation and increasing the personal misery involved. The act abolishes the longstanding right to seek early release on parole, and severely limits judicial discretion in sentencing. In determining what term of imprisonment to impose, judges will generally have to follow a set of guidelines, to be issued by a presidentially appointed Sentencing Commission. If the judge decides that a particular defendant deserves a sentence more lenient than the guidelines indicate, Federal prosecutors—for the first time in our history—might appeal to a higher court for a harsher sentence. The Sentencing Commission's chair, Federal Judge William Wilkins Jr. of South Carolina, put it neatly when he said, "This Sentencing Commission, and the law which established it, will make more significant changes in the justice system than anything else that has happened this century."

The very existence of sentencing guidelines for each offense in the Federal Criminal Code will strengthen the Federal prosecutors' already strong hand. Although theoretically the grand jury decides what charges to bring against the defendant, as a practical matter the prosecutor is in a position to determine what those will be. The same course of conduct may be claimed to violate a number of different laws, of differing degrees of severity, and the Federal prosecutor will be able to select charges that, under the guidelines, carry the likelihood of the longest jail sentence. Judges will have much less leeway than they do at present to impose lenient sentences where they feel the circumstances warrant. When it comes to plea bargaining—the process by which most defendants are induced to agree to plead guilty to lesser charges in return for surrendering their right to a jury trial—the scales are tilted dramatically in the prosecutor's favor. By including in the indictment some charges for which the guidelines will prescribe long sentences if the jury finds the defendant guilty, the prosecutor can strongly encourage the defendant to forgo the risk of trial by jury and plead guilty to charges with more lenient guidelines.

The sentencing guidelines have not yet been issued, but it is widely expected that sentences to be served under the guidelines will generally be longer than they are now. The commission chair has put it this way: "These guidelines will probably put people in prison for longer periods of time than some areas of the country are now used to."

The membership of the Sentencing Commission is of critical importance to its final product: the guidelines. Although these must be submitted by the commission to Congress, which then has six months to change them before they go into effect, the magnitude of the revision task makes it unlikely that Congress will alter the commission's recommendations to any great extent. Positions on the Sentencing Commission are among the most powerful positions in the judicial branch of our government, yet President Reagan's nominations received almost no public attention, less by far than his nominations for many individual judgeships. Probably not one lawyer in a thousand, or one nonlawyer in a million, could tell you who is on the commission. Despite its members' professional competence in their fields, the commission lacks diversity. The President appointed no practicing attorneys, let alone any defense attorneys. Judge Wilkins, who was recently appointed to the U.S. Court of Appeals for the Fourth Circuit, previously served as a prosecutor, and as an aide to conservative South Carolina Senator Strom Thurmond. Stephen Breyer, a former professor at Harvard Law School and one of President Carter's last judicial appointees, had been an aide to



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Senator Edward Kennedy and worked on the sentencing legislation as counsel to the Judiciary Committee. Rutgers University professor of law Paul Robinson was also an aide to the Senate Judiciary Committee while Kennedy and Thurmond served on it; Robinson worked for conservative Arkansas Democratic Senator John McClellan. A majority of the seven voting commissioners have some background in prosecutorial or Justice Department work. On balance the commission membership appears to have a relatively conservative bent.

The Thurmond-Kennedy ties tell us a little about the structuring of the commission and a lot about the structuring of the Comprehensive Crime Control Act. For this move to the right in the criminal justice arena, this move to subordinate the rights of the individual to the needs of the prosecution, cannot be attributed to the recent Republican control of the Senate. Many items in the act, including the provisions on bail and sentencing, were approved in earlier sessions when the Senate had a Democratic majority. Thurmond and Kennedy worked together closely to prepare and pass the legislation. The final Senate vote on the act was 94 to 1, with only Maryland's maverick Republican, Charles Mathias, opposing. As Kennedy candidly stated, "This unusual measure could not have reached the President's desk without bipartisan cooperation."

House Democrats, however, were less cooperative. The House Judiciary Committee and its subcommittees, under Democratic chairs, consistently refused to go along with the Senate's approach to wholesale revision of the Federal Criminal Code, preferring to consider proposed changes piecemeal. For a decade, much work went into Senate consideration of proposals to modernize and recodify the entire body of substantive laws that define Federal crimes; changes in bail and sentencing procedures were not the major focus of the recodification effort. But in the last Congress, the Senate abandoned the lofty goal of overall recodification, which seemed unlikely to win acceptance in the House, and instead adopted a collection of procedural and substantive legislative changes strongly favored by the Justice Department. As pointedly noted by Representative John Conyers Jr., who chairs the House Subcommittee on Criminal Justice, "The Department of Justice, responsible for Federal prosecutions, claims credit for drafting most of the legislation, including provisions revising Federal bail and sentencing procedures."

When it appeared that the Democratic leadership in the House, and its Judiciary Committee and subcommittees, would block passage of the Senate legislation, they were skillfully bypassed in a parliamentary maneuver by conservative Republican Representative Dan Lungren of California. He moved to add the package of crime proposals to the unrelated resolution on continuing appropriations, which would require urgent consideration on the House floor in order to keep the government in operation. By forcing a record vote on the crime proposals on the floor of the House, whose members were all up for re-election in several weeks, Lungren mobilized political pressures on Congressional Democrats to vote in favor of "law and order." The issues were too complex to explain a recorded "no" vote to constituents before Election Day.

Representative Lungren's motion carried, and when the joint appropriations resolution emerged from the House, it had tacked onto it a Title II: the Comprehensive Crime Control Act of 1984. Final passage by both houses came within two weeks, after some amendments that had been approved by House-Senate conferees on the appropriations resolution. Instead of using Title I of this resolution to appropriate adequate funding for the social and employment programs that could deal with the poverty-related causes of so much crime, Congress had adopted Title II to deal with crime's effects.

"Comprehensive" is a misnomer. The act was described more accurately by former Kennedy staff member Kenneth Feinberg, a leading exponent of and expert on the legislation, as a "haphazard . . . hodgepodge" of provisions, rather than a systematically designed whole. On the one hand, it includes sections that usefully update our rules of law. It deals with new wrinkles in the field of fraud, from livestock fraud to credit card fraud to fraud on banks or with computers. It adopts a new approach to crimes perpetrated by unauthorized computer access (as illustrated by the movie *War Games*), cracks down on money-laundering by banks and bandits, and, most important, seeks to protect citizens by authorizing prosecutions in U.S. courts of terrorists who take Americans hostage abroad. (In the 1985 Achille Lauro hijacking, for example, a warrant was issued under this provision for the arrest of Palestine Liberation Organization leader Abu Abbas, and the Justice Department has been urged to consider Yasir Arafat's liability as well.)

Other provisions of the act, however, turn back the clock on protections of defendants' rights. For example, the act authorizes prosecutors to seek unprecedented forfeitures of attorneys' fees paid to defense counsel. Forfeiture can be required if the prosecution later shows that the defendant obtained the money to pay his fees from the illicit profits derived as a result of certain offenses—thus deliberately dis-

SUPREME COURT WATCH REPORT ON JUDGE SCALIA

The Supreme Court Watch project of The Nation Institute has been collecting information on the legal records and backgrounds of potential nominees to the Court. The project has produced both an analysis of Antonin Scalia's positions on several key legal issues, as well as a general report on his background; both are available to members of the press and interested scholars. For more information please contact Emily Sack, director, The Nation Institute (212) 242-8400.

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couraging attorneys from accepting clients charged with those offenses. The act also seeks to make it more difficult for an accused person to establish an insanity defense, by repealing the American Law Institute's modern standard for determining insanity and restoring the nineteenth-century "M'Naghten Rules." Also repealed were sentencing provisions for youthful and young adult defendants that had allowed for special rehabilitative treatment for those under 26. In the same hard-line spirit, the age at which juveniles may be prosecuted as adults in Federal court was lowered to 15. Perhaps the greatest irony for an Administration supposedly devoted to reducing Federal power is the act's extension of Federal jurisdiction to many local crimes that used to be prosecuted exclusively by the states. But in mitigation of this departure from the Administration's federalist principles, states were given the one type of Federal aid for housing the poor of which the Administration apparently approves: the act authorizes Federal land to be granted for state-constructed prisons.

Concerned about unfair charges that they are soft on crime, some Congressional Democrats tend instead to be soft on so-called anticrime legislation that cuts back on individual rights. The progressive Democratic approach to our serious crime problem, focusing on social programs to reduce crime's underlying causes in poverty and unemployment, has foundered on the political shoals of Reaganomics, and more lately Gramm-Rudman. Thus, House Democrats panicked when they were maneuvered into a sudden floor vote just before the 1984 elections. The Senate Democrats, however, do not have this explanation; they were co-opted from the beginning. Perhaps the key move in this process came when the Democrats' leader on the Judiciary Committee, Senator Kennedy, found that the sentencing provisions that he had developed over the years of code revision work had been adopted and recommended by President Reagan's Commission on Violent Crime. The manifest shortcomings and inequities in the existing sentencing system had already persuaded Kennedy to abandon the rehabilitative goal in favor of the Sentencing Commission system. Kennedy had too much of a stake in the commission approach to defer or abandon it when it turned out that the all-important choice of commissioners would be made by Reagan, not Carter. In pursuit of politically palatable sentencing "reform" as he saw it, Senator Kennedy led his Democratic colleagues in accepting the rest of the act.

In the end, the Republicans got the political credit for the act from those who like it, while its critics may blame the Democrats for allowing it to pass. The Justice Department has labeled it a "major Reagan Administration initiative passed with bipartisan support in Congress." But ultimately, when people become aware of all that actually was passed, there will be plenty of critics. In the confusion, most House members probably never read or saw most of the complex provisions for which they voted. The 200 pages of the Joint Resolution's "other purposes" will doubtless spawn tens of thousands of pages of judicial interpretation over decades to come. Last election eve was not Congress's finest hour. □

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Big Business

(*Continued From Front Cover*)
made it more difficult for corporations to pass taxes along to consumers, much of the business community was mobilizing in support of further tax reductions. Over the course of the decade, the convergence of these different pressures and demands produced a mounting budget crisis in the United States, in effect forcing a choice between social and military spending.

Although it was highlighted by the 1973-75 recession, the economic deterioration that drove this process began before and continued after that catastrophic event. Profits of U.S. firms declined after 1965, and throughout the next fifteen years failed to regain the levels they'd reached in the early 1960s. Average annual growth in real gross national product also tumbled, from 4.1 percent between 1960 and 1973 to 2.3 percent between 1973 and 1980.

For workers, the picture became especially gloomy. Unemployment rose to 7 percent from 1975 to 1979, and by 1980 average real gross weekly earnings for private nonagricultural workers had fallen to their lowest level since 1962. Real median family income dropped 6 percent between 1973 and 1980.

The international picture looked even worse. In the immediate postwar period the United States stood unrivaled as the world's hegemonic economic power. But as the economies of Western Europe and Japan were rebuilt and as parts of the Third World were more tightly integrated into the world capitalist system, the relative position of the United States declined. Yet as it lost out in international competition, the United States became increasingly integrated into the world economy, a development that marked a virtual revolution in U.S. international economic relations. General measures of import and export flows can only suggest what may have been the single most important consequence of this combination of declining competitiveness and increasing U.S. integration in the world economy: most U.S. firms felt sharper competitive pressures from abroad, which in turn affected their own pricing policies. To a rapidly increasing degree, even big firms, including some of those that were maintaining market share, were operating in an environment in which prices were affected by international market forces beyond their immediate control. As a result, they tended to become "price takers" rather than "price makers," and were less capable of passing higher costs along to consumers.

As the extent of U.S. economic deterioration became evident during the 1973-75 recession, business responded in predictable ways. Firms sought to cut costs, and although wages were already falling dramatically (indeed, so dramatically that many business spokespersons eventually conceded that wage costs were not the source of their continuing difficulties), for most companies the most natural cost to cut first was that of labor.

Virtually all of American business pushed for wage reductions in the 1970s, and the employer offensive against unions and unionization hurt a major investor in the Democratic Party. But the significance of the wage and unionization issues should not be overestimated in explaining America's political right turn. By hurting labor, the employer offensive marginally hurt the Democrats' capacity for mobilization; it also weakened the party's resistance to the conservative shift. But the decline in labor's power in the 1970s merely continued a downward slide apparent since at least the mid-1950s.

Considered from the standpoint of the distribution of business "investment" in the two parties, moreover, wage and labor issues look even less impressive as causal factors. The firms that provided the key support for the New Deal, and most of the major firms that backed John Kennedy and Lyndon Johnson, were heavily capital-intensive. Labor costs were thus relatively less important for them than they were for labor-intensive firms. The latter, as a practical matter, had little choice but to become rock-ribbed Republicans, and had made that choice long before. Thus, while the increased competitive pressures of the 1970s led almost every firm to be more attentive to labor costs and weighed especially heavily on labor-intensive firms already oriented toward the Republicans, the labor question alone probably turned comparatively little traditionally Democratic business support away from the party.

What labor costs could not do by themselves, however, other features of the new world political economy created by the 1973-75 recession could. Reeling from intense foreign competition, many multinational firms, including many in such capital-intensive sectors as pharmaceuticals, paper and petrochemicals, lashed back at what they claimed were unduly burdensome government regulations—in particular, environmental and worker-safety regulations. These regulated concerns were among those most likely to organize political action committees during the period. They also began major efforts to influence public opinion, other elites and the media. The pharmaceutical-related Smith Richardson Foundation, the petrochemical-related Sarah M. Scaife Foundation, the chemical-related John M. Olin Foundation and other lavishly financed institutions launched broad campaigns against government regulation and in support of "free enterprise."

Although a few liberal, multinationally oriented Republicans remained committed to environmental and other regulation, for both philosophical and financial reasons the Democrats had a stronger affinity for the environmentalists and other advocates of regulating business. Accordingly, the rising antiregulatory, pro–free enterprise movement weakened the Democratic base in the business

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Thomas Ferguson is an associate professor of government at the University of Texas, Austin. Joel Rogers is an associate professor of law at the University of Miami. *This article was adapted from their* Right Turn: The Decline of the Democrats and the Future of American Politics. *Copyright © 1986 by Thomas Ferguson and Joel Rogers. Reprinted with permission of Hill and Wang, a division of Farrar, Straus & Giroux.*

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community and in the country as a whole. In addition, a range of regulatory restrictions—regarding the environment, pharmaceuticals and dangerous technologies—specifically affected the Democrats' traditional base among firms doing large shares of business abroad. Particularly in the late 1970s, destructive competition among the major powers and the perils of unrestrained growth in the Third World prompted some limited multilateral efforts at environmental and other regulation: the negotiations over the Law of the Sea Treaty, for example, as well as the Carter Administration's tightened policies on nuclear proliferation, and the Food and Drug Administration's more aggressive enforcement policies. As a result, companies that were eager to sell untested drugs to the Third World or export nuclear technologies or engage in mammoth construction projects that degraded regional environments in other countries or offshore areas sometimes found government in the way. Strongly identified with the Democrats, and backed by many of the same sectors that promoted domestic environmental regulation (pre-eminently banking and other services), these international initiatives served to weaken backing for the party among its other multinational supporters.

The most devastating blows to the position of the Democrats in the business community, however, came not from domestic actors but from abroad. For the Democrats the dramatic rise in oil prices in 1973 had a number of immediate effects. One of these was obvious, if little noted. For more than a generation the biggest and most powerful of America's capital-intensive industries, the oil industry, had been heavily Democratic. In 1936, Franklin Roosevelt raised more money from Texas than from any other state, and the stories of Kennedy's and Johnson's close ties with oil are well known. In the twinkling of an eye, however, the Organization of Petroleum Exporting Countries did what a generation of Republicans and populist anti-oil Democrats were never able to do: split the oil companies from the Democrats.

As OPEC raised its prices, world oil and gas prices soared, and the basis for an almost uncountable number of residential and business choices changed drastically. Responding to frantic pleas from some regional Congressional delegations and many large industrial users, the government initially attempted to hold down domestic prices of oil and gas through a complex system of price controls. Not surprisingly, most oil and gas companies ardently supported lifting the controls.

Although the debate on energy prices created turbulence in both parties, it stirred especially vehement feelings in Democratic ranks. Because the lifting of controls struck so hard at labor, blacks and the poor, most Democrats simply could not support the move. As a consequence, and particularly after the strongly Democratic "Watergate Congress" of 1974 reduced the oil depletion allowance, virtually the entire oil industry began to go over to the Republicans.

By the mid-1970s, then, the basic forces that would eventually drive American politics to the right were already active. Real growth in the economy revived briefly in 1975-76, however, and the trade issue continued to divide business elites. Thus, despite the shift in business sentiment, there was still enough life in the New Deal coalition to elect one more Democrat. A last hurrah for the New Deal, Jimmy Carter's campaign for the presidency in 1976 received support from many multinational businessmen who still valued the Democrats' continuing commitment to internationalism and free trade. But almost as soon as Carter gained office, the tightrope the Democrats walked between elite demands and mass needs began to be stretched tighter and tighter. Ultimately it broke.

In the area of business regulation, for example, Carter started his term by appointing relatively liberal officials to a variety of regulatory agencies, fattening their budgets and moving aggressively on enforcement. For this the Administration was sharply attacked. Bowing to pressures, in early 1978 Carter issued an executive order mandating that agencies analyze the economic impact of proposed regulations, a signal that "excessive" regulation would no longer be tolerated. Review of regulatory agencies was also centralized in the White House–based Office of Science and Technology Policy, the Office of Management and Budget and, especially, the new Regulatory Analysis Review Group. Presiding over this regulatory review apparatus was Charles Schultze, then chair of Carter's Council of Economic Advisers, who was a prominent critic of the irrationality of "command and control" regulation and a major booster of market-based alternatives to it.

This effort at centralized control of agency rulings was advertised as merely a move to "rationalize" the process of regulation. Its clear effect, however, was to promote certain criteria of decision-making—primarily cost-benefit analyses of regulation which cloaked real reductions in regulation—while permitting discrete White House interventions in areas of particular concern to business. But as much as Carter sought to dampen regulatory zeal, for a growing portion of business he simply did not go far enough.

Carter's attempts to broker among different regional interests were similarly unsuccessful. Programs to aid the Democrats' traditional urban constituencies were squeezed out by budget constraints, and Carter alienated Western Democrats and Republicans by canceling nineteen water projects. Nor did the Administration's labor policies gain it many friends in business. Carter, in marked contrast to his successor, supported strong enforcement at the National Labor Relations Board; he also backed (tepidly, to be sure) the Labor Law Reform bill, proposed in 1977, favored by organized labor. Cases of unfair labor practices skyrocketed at the board, however, and Labor Law Reform drowned under a tidal wave of business opposition.

In late 1978 the bottom fell out of the Carter coalition. Concerned about both the pace of economic growth in the United States and the potential for a major downturn abroad, the Administration for two years had maintained a relatively easy monetary policy and allowed the exchange rate to fall. With the rate of unemployment dropping, though, imports rose, and in 1978 wage gains again briefly pulled ahead of productivity gains. Anxiety about the dollar

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grew as the United States' inflation rate raced ahead of those of its allies. In October the effects of the Administration's earlier reluctance to rein in the money supply became dramatically visible. A giant run on the dollar developed.

Forced at last to choose between his constituencies, Carter did not hesitate. To restore confidence in the dollar, he promised in late October to reduce the budget deficit, cut government hiring and eliminate additional regulations. He also announced a series of wage and price standards, in another bid to control inflation. World financial markets responded negatively to this program. In 1979, compounding Carter's problems, came the oil shortage, rising inflation and another run on the dollar that summer. In July, Carter acted, ordering a complex rearrangement of his Cabinet and other top positions in the Administration. He dismissed liberal Health, Education and Welfare Secretary Joseph Califano and Treasury Secretary Michael Blumenthal; he then moved G. William Miller, chair of the Federal Reserve Board, to Blumenthal's old spot. He appointed Paul Volcker, a former employee of Chase Manhattan Bank, to replace Miller at the Fed. Volcker immediately raised interest rates.

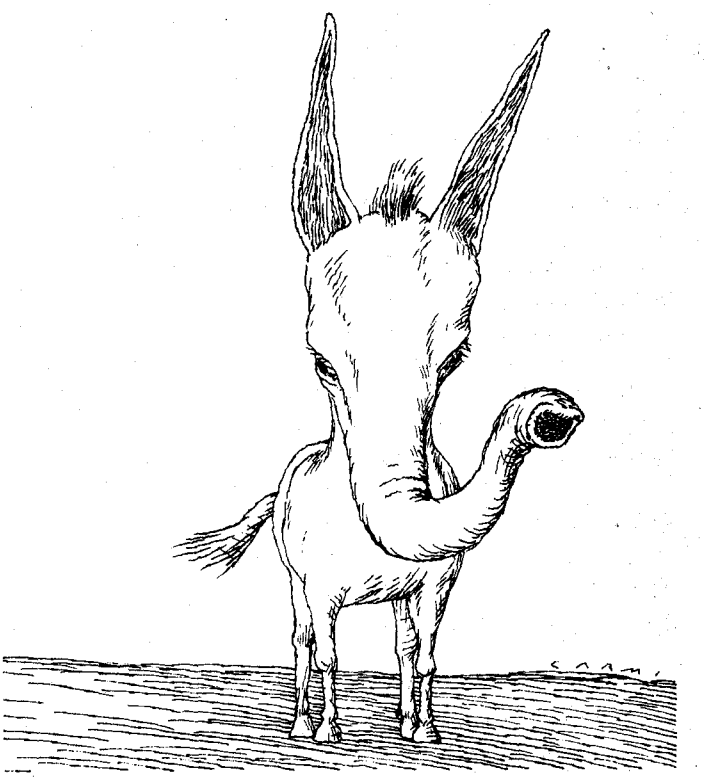
From that point, everything went from bad to worse. Another dollar crisis led the Fed to pursue even more draconian monetary policies, and interest rates approached lunar levels. Real growth in the economy ceased altogether, and for a couple of quarters was even negative. Almost simultaneously, the international economy nose-dived. Adding to the pressures for increased military spending, the U.S. Embassy was seized in Iran and, at the end of the year, the Russians invaded Afghanistan.

But the economic collapse gave Carter little room to maneuver. By early 1980, with Democratic investment bankers holding late-night meetings with the party's Congressional leadership to demand budget cuts, the head of the party of Roosevelt, Truman, Kennedy and Johnson was forced to do the unthinkable. Only months before an election, he slashed funds for the poor, blacks and the cities and further tightened the money supply. At the same time, Carter made clear his commitment to massive (5 percent in real terms) annual increases in military outlays.

Seeking to hedge his bets during the 1980 campaign, Carter shaded both the military buildup and the domestic cuts. As a consequence, he was attacked within the party from both his left, by Senator Edward Kennedy, and his right, by Democrats involved with the Committee on the Present Danger. Although he managed to secure renomination after a difficult and exceptionally bitter fight, his political fate was sealed.

As Jimmy Carter struggled with the new conundrums of Democratic leadership, Ronald Reagan was by slow degrees moving from the far right to the center right of the American political universe. Originally supported by ultraconservative entrepreneurs in California and elsewhere, some large fortunes inveterately hostile to the New Deal, parts of the armaments industry, many small businesses and protectionist concerns in textiles and independent oil, Reagan had failed to enlist many top business figures in support of his abortive 1976 run for the Republican nomination against Gerald Ford. But the rightward drift of the business community on taxes, defense, the environment and labor gradually added to his original core, and by 1980 he was willing to modify policy views that stood in the way of his acceptance by the multinationals, and particularly by what remained of the G.O.P.'s liberal Eastern establishment. Most important, Reagan sought a compromise on the G.O.P.'s most divisive issue—international trade. As many of Reagan's original core supporters watched with mounting apprehension, in the spring of 1980 his campaign slowly struck an accommodation with the internationalist bloc. Eventually, it settled on a plan to initiate a broad new round of trade talks, but only after an indefinite number of years in which the Republican Administration would attempt to reshape the U.S. and world economies through a sweeping series of unilateral actions, involving major changes in budgets, taxes and interest rates.

By putting off a showdown on trade into the indefinite future, the Reagan campaign opened the way for virtually all of American business to mass behind its candidate. And while occasional flaps about the Reagan program and personality persisted to the end, most of American business did gather round, as Reagan promised simultaneously to cut taxes, balance the budget, preserve essential social spending and vastly increase military outlays. Business groups' and the right's contributions to the Reagan campaign, the G.O.P. and "independent" political action committees that favored the Republicans broke all records. As all but a few investment bankers and a handful of multinational business figures deserted the hapless President, the West and even much of the East deserted the Democrats. The Republicans came to power. □



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BOOKS & THE ARTS.

The Thoughtful Generation

JEROME B. GRIEDER

TO THE STORM: The Odyssey of a Revolutionary Chinese Woman. *Recounted by Yue Daiyun. By Carolyn Wakeman. University of California Press. 405 pp. $17.95.*

AFTER THE NIGHTMARE: A Survivor of the Cultural Revolution Reports on China Today. *By Liang Heng and Judith Shapiro. Alfred A. Knopf. 241 pp. $16.95.*

"After the establishment of the new China [in 1949], we hoped that we could use the next hundred years . . . to catch up economically with the most developed capitalist countries. But of these hundred years, 36 have now passed, and there are not many of these in which we could say we have done a good job. You could say we have wasted 20 years."

This is the verdict not of a Chinese dissident but of the Secretary General of the Chinese Communist Party, Hu Yaobang, addressing a select audience of high-level cadre in early 1985. It is now official policy to view the Maoist decades (from the beginning of the Great Leap Forward in 1958 to the arrest of the Gang of Four in 1976, or the consolidation of Deng Xiaoping's position of "pre-eminent leadership" in 1978) as a time of ideological extremism, political fanaticism, economic and social disaster—of "radical leftist nonsense," in Hu's words.

The two books under review here testify in vivid, eloquent and painful detail to the devastating extent of the waste not merely of national resources but also of the sense of revolutionary purpose that brought the Communists to power. Both are collaborative efforts and owe much to the insight of their Western co-authors, Carolyn Wakeman and Judith Shapiro. But both are rooted in experiences that are unique to Chinese survivors of the revolutionary history of the People's Republic.

Yue Daiyun belongs to the revolution's first generation. As a child in the province of Guizhou she had learned to despise the great and petty tyrannies of Chiang Kai-shek's derelict regime. In 1948 she was 18 and a first-year student in the department of Chinese literature at Beijing National University (Beida), China's most prestigious and politically restless campus. After she joined the Communist Party in 1949, her career as a teacher in the literature department at Beida and as an active and exemplary party member prospered. She married well; her husband, Tang Yijie, the son of a former president of Beida, is a scholar of Chinese philosophy and Buddhist thought. Hers was a life of energetic and unquestioning dedication to the new regime's revolutionary purposes, one which brought with it the social privilege and responsibility that traditionally accompanied the intellectual's status. In this New China Yue confidently bore a daughter in 1953 and in late 1957, a son. Within weeks of the second birth, Yue Daiyun's life collapsed.

Early in 1958 she was condemned as a "rightist," stripped of her party membership, denied any responsible teaching position and ostracized by erstwhile comrades and colleagues. Yue Daiyun spent the next twenty years officially "separated from the people." *To the Storm* is the record of her effort to understand this tragedy, which is both personal and also, as the narrative reveals, a social and cultural disaster of awesome dimensions.

Rightism, a crime now out of fashion in China, is not easy to define. In part, it derived from the Maoist conviction that the revolution must not be allowed to follow its natural "revisionist" course, generating new hierarchies of power and privilege, new elites of bureaucratic and intellectual expertise with vested interests in preserving the status quo; in part, it reflected what seems in retrospect a constant factor in Mao's personality—a visceral hostility to the life of the mind, to intellectual creativity and thus to intellectuals as a class. The particular motives that led to Yue Daiyun's and tens or even hundreds of thousands of others' being "capped" as rightists in 1958—on flimsy or nonexistent evidence—remain obscure, or at best arbitrary. But clearly, the Anti-Rightist Campaign was a dress rehearsal for the far more destructive cataclysm of the Cultural Revolution, which began in 1966—when, as Liang Heng puts it, Mao Zedong "set the country on fire, and forced nearly everyone into one of two roles: victim or victimizer."

Liang Heng was born in Hunan Province in 1955. The enthusiasm and hope of the early years of the revolutionary order—all the accomplishments and promises that nurtured the revolutionary faith of Yue Daiyun and her generation—were past. Liang's mother was labeled a rightist in 1958; his father, a journalist, "drew the line" against this enemy of the people and divorced her. Liang grew up buffeted by the crosswinds of the Cultural Revolution: a Red Guard at the age of 12; then a "sent-down" youth condemned to seek his education from inhospitable peasants; then a worker; finally, in the first years of China after Mao, a student at Hunan Teachers College, where he met and married—amid great controversy, and thanks finally to Deng Xiaoping's personal intervention—an American teacher, Judith Shapiro. This tale is compellingly told in Liang's earlier book, *Son of the Revolution*, with Judith Shapiro. As the subtitle of *After the Nightmare* suggests, Liang is a "survivor," a U.S. citizen and editor of a sophisticated and cosmopolitan Chinese-language quarterly published in New York and widely read in China, titled—R.I.P. Mao Zedong—*The Chinese Intellectual (Zhishifenzi).*

After the Nightmare is an episodic account of his return to China in 1985. There is an emotional reunion with his invalid father, whose health was broken when he became a political target during the Cultural Revolution and who is now delighted and bemused that his son has become a journalist, even if it is in New York. He finds some of his friends from the turbulent years: an ideologically committed Marxist who spent five years in solitary confinement during the Cultural Revolution and who dismisses the experience with the judgment, "Maoist socialism was fascist feudalism," and holds a responsible position in the Hunan provincial television administration; another friend and former democratic activist, who spent several years doing "corrective labor" in the countryside, is now deeply in-

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volved in private enterprise. Liang returns to the peasant household where he and his father were quartered during their stint of "re-education" and finds the villagers unquestioningly cordial but still without electricity. He discovers that the daughter of his old host, having failed the middle-school entrance examinations, is resigned to expectations that haven't changed for centuries:

> Chopping pig food, cutting dry grass, carrying water, spreading fertilizer, sowing grain, transplanting [rice] shoots, harvesting, binding, threshing, hauling; cooking, wiping, mending, sweeping. . . . If Lianhua was very, very lucky, she would give birth to a healthy male child right away. Her husband's family would not reject her, and she would live out an old age blessed with her son's filial obedience.

Liang Heng's itinerary takes him and Judith Shapiro to several new places as well. In Shekou, one of the Special Economic Zones near Hong Kong, they discuss China's recent "opening to the West" with sophisticated and enterprising new-style Chinese entrepreneurs. In Guiyang, in the province of Guizhou, they encounter an assortment of outcast women: the widow of a Nationalist officer who runs the best noodle stand in the city; a displaced Yunnanese Moslem widow whose husband and sons were among hundreds killed in a pitched battle against government troops in 1975 for refusing the official order to eat pork; a derelict whose husband died in prison because of a subversive "anti-Maoist" typographical error on a cigarette package. They travel, without authorization, across the desolate highlands of Shanxi Province, where in the legendary Yan'an years Mao's peasant-based revolution really began, and where bureaucratic lethargy, hostility to change and the protection of privilege are now an accepted way of life. "Deng Xiaoping lives up in the sky, and I live way down here," shrugs an old peasant. "I can hear him, but he can't hear me."

Like Liang, Yue Daiyun is also a survivor, though in a different sense. She survived on the terms dictated by the regime under which she lived. Sentenced to corrective labor under peasant supervision after her conviction as a rightist, she worked for two years in a village outside Beijing carrying rocks to build a reservoir which was never finished. She lived through the famine of 1959-60 that resulted from unrealistic Maoist agricultural policies. (By a conservative estimate, 30 million people died of starvation in the dreadful Three Bad Years.) In 1960 her rightist cap was removed, though she remained excluded from any influential academic position. Assignments on the periphery of Beida's academic establishment alternated with stints as a "sent-down" intellectual condemned to re-education in the countryside. Then in 1966, in the early stages of the Cultural Revolution, her husband, who had somehow escaped the lash of the Anti-Rightist Campaign—and who had never "drawn the line" between himself and his "rightist" wife—became a major target of the Cultural Revolution. He was publicly humiliated, physically abused and detained, in an ordeal that lasted until 1978. Throughout those years, Yue Daiyun's life was one of uncertainty and physical and mental exhaustion, the result of anxiety about the fate of her children whose prospects seemed utterly ruined by the inescapable burden of their parents' political status.

From 1966 through 1969, the Beida campus was a virtual battlefield of radical Red Guard factions. Students were beaten to death or permanently crippled. Suicides were common; a revered Marxist historian whose fidelity to the revolution was beyond question committed suicide together with his wife, rather than "eat the bread" of a corrupt regime. Lao She, one of China's great modern writers, was either driven to suicide or murdered by the Red Guards. The deaths of many less conspicuous victims went unrecorded, except in the memory of their friends. For Yue Daiyun this period was not a breaking point but a turning point. Hastening home to prepare the evening meal for her family on a wintry night in 1969, she pauses by the flagpole—now without a flag—that her graduating class gave to Beida in 1952:

> As I sank onto those marble steps, I tried to remind myself that life had not so long ago seemed full of promise. But the happiness and confidence of those earlier years was now scarcely within the reach of memory. Overcome by desolation, I cried bitterly, weeping not only for myself and my children, but for my country, for all the waste, the loss, the suffering of those fourteen years.

Grim stories abound in the pages of these books. But neither is intended merely as a chronicle of horrors, or as

CONTENDING IDEOLOGIES IN SOUTH AFRICA
Edited by James Leatt, Theo Kneifel and Klaus Nürnberger

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an indictment of Maoist errors and excesses designed to validate the government's current "line." In somewhat different ways, both *To the Storm* and *After the Nightmare* impart the message that for all the pain, the incomprehensible injustices, the bitter legacies of cynicism and distrust, the Maoist years were nevertheless the time when the Chinese revolution came of age. "Many called us China's 'lost generation,' writes Liang Heng, "for we had lived our childhoods uprooted by the winds of politics. But we were also China's thoughtful generation, for we had awakened to the folly of our traditions with their passion for hierarchy and obedience to authority. . . . What had been our greatest misfortune was also our greatest hope, for it offered us a chance to understand, as a nation, the great urgency of liberating ourselves from our tragic past."

Yue Daiyun's memoir ends on a note of fragile hope and tentative self-confidence. Early in 1979, informed with perfunctory casualness that the twenty-year-old verdict against her had been "a mistake," she is invited to resume her membership in the Communist Party. Eventually she accepts:

> Even as I recalled the disappointments of my own life and the tragic loss of my friends, I realized that some flame still burned in my heart. It had flickered at times but had never finally been extinguished. Surely the hardships, the losses suffered together, would not be redeemed unless we strove to keep that flame alive. . . . I was far less confident of success than in 1949 and far less certain that I could contribute, but I knew that I had to try.

Liang Heng's account of the accomplishments and failures of the reforms instituted since 1979 leaves one in some doubt as to whether China's future will vindicate Yue's hope that the sacrifices of the past can be redeemed. Despite the sometimes imaginative and energetic efforts of the Deng Xiaoping leadership to legitimize individual initiative and responsibility, the shadow of China's inheritance still looms: bureaucratic elitism, privilege and inflexibility; the pervasive influence of *guanxi*—personal contacts—and "going through the backdoor" as the only way to get anything done; the enduring conviction, even on the part of the "liberals" who survived the Cultural Revolution, that there is still an unbridgeable chasm between those entitled by education and expertise to lead and "the masses," who must continue to be led. "Left to their own devices, the Chinese people would tear each other to bits," observes one of Liang's more sophisticated and progressive informants. "We all saw that during the Cultural Revolution. Democratic foundations have to be built gradually. If you handed democracy to the Chinese people now, they wouldn't know what to do with it."

Chinese reformers have been making the same case—in virtually the same language—since the 1890s. It was this premise that, in one part of his mind, Mao Zedong rejected with the revolutionary slogan "Learn from the masses." The consequences were intolerably arbitrary and cruel in their impact on human lives and careers. They were politically and economically disastrous as well. But neither Yue Daiyun nor Liang Heng would, I think, argue against the ends sought, however deeply they, and we, may deplore the ruinous results of the means employed.

So, more often implicitly than explicitly, these absorbing accounts of China's revolution force us to confront some of the most vexed and disquieting questions to which the revolutionary history of our century has given rise. Is it possible to accomplish fundamental and enduring changes in the structure or the values of any human community by moderate means? Is it possible to recognize the line that separates social idealism from moral fanaticism? Is it possible to substitute an abstract collective wisdom for individual judgment as the arbiter of what is good and what is evil, what is useful and what is wasteful, what is true and what is false? For Chinese whose lives have been shaped by their country's turbulent history over the last forty years, these are not academic questions. They are issues of spiritual survival. It is both heartening and humbling to discover how many spiritual survivors there are. □

How It Really Was

JOHN BOSWELL

ANCIENT HISTORY: Evidence and Models. *By Moses Finley. Viking/Penguin. 131 pp. $17.95.*

In this entertaining and querulous little book Moses Finley, certainly the best-known and arguably the best social historian of the ancient world, takes a large percentage of his fellow historians to task and warns his readers that they are being misled by the apparent advances of "modern" historiography. To begin with, he complains, modern historians are dismayingly uncritical about ancient sources, often treating any account in a classical language as a primary source, even if its author worked from unreliable accounts and had no firsthand knowledge of the material he covered—which is, alas, the case with most ancient historians. And since there is so little trustworthy written historical evidence, it is time that archeology and other "nonhistorical" disciplines were adopted by historians as necessary parts of their scholarly apparatus.

In addition Finley warns us that the use of nonnarrative documents—inscriptions, bills of sale, etc.—is marred by an excess of clever extrapolation (inflated by the popularity of cliometrics, or statistical history) and a dearth of sensible attention to context. This difficulty is aggravated by the popular myth that "good" history is objective in the sense of involving no pre-established conceptual models or assumptions. As he argues, this notion is not only unrealistic—everyone uses models and has assumptions—but misguided: the proper goal of history is to create accurate models through constant reformulation and response to new information. Just as historians must be alert to new methodological approaches and models from other disciplines, they have to be wary about importing inappropriate or anachronistic models from their own milieus. Finley illustrates this by exposing a series of false assumptions that underly historians' explanations of war in the ancient world. Nearly all of them involve projecting modern economic and political views and problems onto ancient evidence. Thus chapters one through five. After that the book seems to fall off. The final chapter, "Max Weber and the Greek City-State," addresses questions that are less interesting

John Boswell is the author of Christianity, Social Tolerance & Homosexuality: Gay People in Western Europe From the Beginning of the Christian Era to the Fourteenth Century *(University of Chicago Press).*

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than those posed in the rest of the book, and the epilogue is almost perversely anticlimactic.

Most of the issues raised by Finley are problems that inspire or plague historians of all periods, so the book constitutes an overview of the historical profession as seen from the special Parnassus of one who has done much to shape its contours. Ancient history is the ideal forum for many of these arguments about Clio's epistemological problems, because until recently it involved a fairly static body of documentation, and it was easy to see the play of the individual mind in ordering, interpreting and drawing conclusions simply by comparing one historian's view with another's. For later periods of history the documentation is often so vast and unmanageable that different books on the same period may use almost entirely different source materials, and comparison tends to focus on the value of the respective data rather than on the more profound conceptual issues.

Because Finley has written on most of the questions he raises, he is acutely aware of the extent to which viewpoint affects investigative techniques and the presentation of conclusions. He exposes the errors of his colleagues with inquisitorial rigor. His vantage point seems to afford him, among other luxuries, the ability to deploy humor in treating topics and materials that would be, or have been, tedious or dull in less agile hands. His discussion of the "tell all you know" school of history in chapter four ("How It Really Was") is wickedly funny. He notes:

> The old problem of establishing canons of selection and of settling who determines them has been "solved" by abolishing selection altogether. Everything now goes in.

As an example he cites Peter Fraser's monumental *Ptolemaic Alexandria*, a work, he observes, of staggering thoroughness and detail: 800 pages of text, more than 6,000 notes and 157 pages of indices. But then, to show what the tell-all-you-know technique is actually able to produce, he simply quotes a few of Fraser's own conclusions: "the development of Alexandria as a city largely escapes us"; "over the origins of the population of Alexandria a darkness reigns, through which, at present, scarcely one chink of light gleams"; "our ignorance of the organization of the Alexandrian citizen-body is matched by our ignorance about the constitution

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by which the body was governed"; "of trade and industry in Alexandria we know very little"; and so on.

From my perspective as a social historian of a later period, most of Finley's complaints appear well-founded, if slightly catty. He overstates quite a bit, possibly because the book is composed of a good many rejoinders to those who have disagreed with his own arguments, and possibly as a deliberate strategy to force the historiographical pendulum in the opposite direction by the weight of his rhetoric and ridicule. Some of this is simply intemperate language. The resounding observation that "the evidence propounds no questions" is either silly, if he means that documents don't talk, or obfuscatory, if he means to imply a separation between the evidence and the mind that assesses it.

Some of the exaggeration arises from narrowness of focus, which is inevitable but still worth noting. I was flabbergasted to learn that medieval historians are "more fortunate" than their counterparts in ancient history in terms of statistics. For the 800 years from 600 A.D. to well into the fourteenth century we have, for all of Europe, no more than a half-dozen bits of reliable numerical demographic data, and only one of them (the Domesday survey) is of evident utility. Contrary to what Finley suggests, classicists have much more. In rejecting the traditional Roman king list he argues that "a 250-year period occupied continuously by only seven kings is a demographic improbability, perhaps an impossibility" and notes by contrast that "the first seven emperors under the Principate reigned for a total of one hundred years." Indeed; and does Finley see no apposite difference between the likely stability and longevity of a traditional and well-established hereditary monarchy and that of the Principate, occupying an ill-defined position with no clear principle of succession? During the sixth century in Spain a reign of two years was an accomplishment for a monarch in a politically unstable country with no established mechanism of succession; but this surely provides no grounds for doubting the likelihood (which is beyond question) of reigns in the same country in the more prosperous and stable twelfth and thirteenth centuries that averaged around fifty years.

This anachronistic comparison of entirely disparate political situations separated by half a millennium is a good example of the extent to which Finley falls prey to most of the foibles he inveighs against. This does not vitiate the book's utility; if anything it increases it, at least for the attentive reader. Because words even at their most eloquent can bear only a small, stylized suggestion of reality, they have to be loaded and overcharged to make an impact. In warning us about the sins and failings, conceptual blunders and rhetorical excesses of historians both ancient and modern, Finley himself has had to resort to extremes of modeling, selective inference, overstatement and anachronism. The warning is an excellent one, and should be widely heeded, but the watchman himself must not escape scrutiny. □

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MUSIC.

DAVID HAMILTON

Popular writing about contemporary art music increasingly tends to be macro rather than micro, focusing on trends (which make "news") rather than works (which are what we actually listen to—if we do). Trends there may be, and questions of definition—or perhaps only of territoriality—are rife, but in the loose structure of the music world what you perceive depends increasingly on where you sit. Concerts furnish one level of experiences at which audience enthusiasm can be shared, and quantified after a fashion; recordings and radio broadcasts provide a less tangible though more durable pattern of exposure.

Since the late nineteenth century, styles and audiences have been fragmenting, in a process too inevitable to be worth deploring. Today, settings and packaging denote styles: Lincoln Center or downtown; glossy photographs or minimalist record jacket designs. Sadly, such categorization can be a distinct disadvantage to groups with wider sympathies, such as the American Composers Orchestra, which typically espouses music ranging from that of dead academicians to living experimentalists; the past season it managed to embrace Cole Porter, John Cage and Milton Babbitt, as well as younger figures—alas, to less than the full houses its ecumenicism and expertise deserve.

Not the least intriguing result of our century's combination of stagnating institutions and diluted avant-gardism is the amount of music forgotten before it is ever discovered. For example, Artur Schnabel's Third String Quartet—composed in 1923, first played in 1930, recently resuscitated by the LaSalle Quartet—proved a knotty but clearly argued contrapuntal marathon, inhabiting an expressive territory on the transparent side of Reger. Several memorial performances for the late Roger Sessions left me again amazed at the scant attention paid to his deeply felt and imaginatively spun work. (André Previn has been promoting the Sessions Second Symphony, and only one top fiddler need test his mettle against the Violin Concerto to reveal its power and beauty.) There's more to come in this department: I even detect stirrings of a Howard Hanson revival. Who knows? Having outlived its role as a weapon against progressive tendencies, his music might now sound different; being forgotten for a while may actually help.

But then we're still picking up on even earlier figures such as Busoni: at a brilliant recital, the pianist Alan Feinberg revived his Toccata, a knuckle-crusher poised on the intersection of Romanticism and Neo-Classicism (a recording by Alfred Brendel has appeared on a new Philips disk, 416-319-1). And performers persist in cultivating Schoenberg, who remains the century's largest undigested figure: hearing his early, lush and meaty *Pelleas und Melisande* powerfully played by the Cincinnati Symphony under Michael Gielen, I wondered why it doesn't rival at least the weaker Strauss tone poems in frequency of performance.

In some cities, orchestras and conductors try to give unfamiliar and new music a significant place in their seasons and, by recording it, to gain national exposure for themselves. The St. Louis Orchestra, under Leonard Slatkin, is a conspicuous example. The apparent exhaustion of the nineteenth-century repertory, at least the way most American orchestras are playing it these days, may make such a course sensible. From what

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I hear on radio and in concert, only in Cleveland and San Francisco, and occasionally elsewhere with guest conductors, are you likely to encounter much more than expertly faceless routine, and I do not envy unprepared orchestra managements the day of reckoning when subscription audiences either wake up to this fact or die off altogether. In addition to being boxed in with facilities and contracts not particularly congenial to contemporary music, many managements evidently fear risking what public they retain by programming to attract a more adventurous, more committed one.

Given the alacrity with which the New York Philharmonic drew back from that precipice after Pierre Boulez, its publicity campaign on behalf of his return this past season had a hollow ring. (I'm not sure I understand what Boulez is up to as a composer these days: his elaborate *Répons*, glittering with computer-generated and -controlled multidirectionality, has a large stagnant patch in the middle.) Spring brought the Philharmonic's final Horizons festival, a three-week ghetto of contemporary music distinguished by an undersupply of American composers and an oversupply of pieces already long familiar from recordings, bedecked in chi-chi staging and décor. The behavior of one member of the string section, who shamelessly mugged at colleagues and audience while nominally on the job, was an index to the orchestra's problems. Some of the guest performances were expert indeed: clarinetist Jean Kopperud made a winsome entertainment of Stockhausen's slightly overextended *Der kleine Harlekin*, and Jan DeGaetani brought focused intensity to Jacob Druckman's *Lamia*.

On the brighter side, it was a season of retrospectives for two septuagenarians, George Perle and Milton Babbitt, both enjoying continued productivity and the eloquent advocacy of gifted younger performers. Beyond the celebratory concerts, current recordings include three fluent and engaging pieces by Perle featuring pianist Richard Goode (Nonesuch 9-79108-1), and a substantial selection of Babbitt's piano music by Robert Taub (Harmonia Mundi HMC-5160), who showed himself equally in command of its unremitting athleticism in concert. Perle's personal, economical idiom distills warmth from neo-Classic wit, and clarity from suggestions of Romantic harmony, while Babbitt's fleet, lapidary counterpoint

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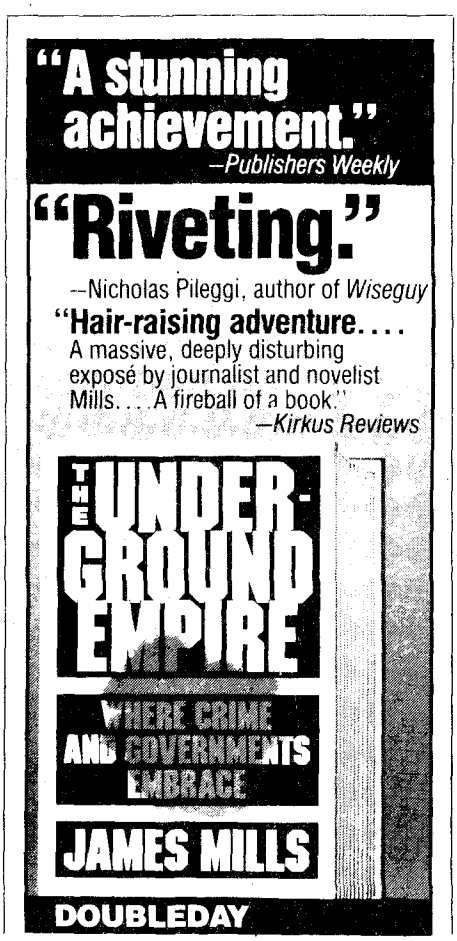

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generates a unique rhythmic springiness. (Alan Feinberg offered yet another recent Babbitt piano piece, *Time Series*, in his recital and introduced the composer's Piano Concerto with the American Composers Orchestra; this is a tougher nut to crack, but fortunately a recording is on the way.)

Then there was the fifteenth anniversary series of Speculum Musicae, a group that has lost none of its zest and edge despite personnel changes; Speculum still attracts fine players and strong new pieces—among them Charles Wuorinen's buoyant *Double Solo for Horn Trio*. For Hans Werner Henze's *El Cimarròn*, they were joined by the compelling baritone Jonathan Sprague—another occasion when the commitment of performers sustained a work longer on atmosphere than on substance. But then good new-music players have avoided the rote of the standard repertory—and, forced to create performances from scratch rather than copy them, they carry these same habits to older music: it's no coincidence, I think, that Taub's Bach duets and Feinberg's Rachmaninoff preludes are as riveting as their Babbitt. □

THEATER.

MOIRA HODGSON

London Theater

Years ago an aunt of mine overheard a conversation between two cockney matrons on a London bus. They were on their way home from a Saturday matinee at the pictures. "I saw ever such a nice film last week," one of them remarked. "It was called 'Les Miserables,' with Charles Laughton as Les."

The musical version of Victor Hugo's novel cannot exactly be said to have followed hot on the heels of the film, which was made in the 1930s, but it is the hot theater ticket in London, commanding a top price of $28 at the box office and about $150 from scalpers. The audience at the Wednesday matinee I attended, having spent a great deal of money, wanted very much to like the show and leapt to their feet among the shopping bags to applaud it at the end. Even I, for whom the three hours had often seemed interminable, found the finale, which takes place on the barricades of Paris, rousing. As Noel Coward said, never underestimate the power of cheap music.

I suspect that *Les Misérables* may be so appealing partly because the music, by French composer Claude-Michel Schönberg, sounds so much like Barry Manilow, with a touch of Jacques Brel and Kurt Weill to give it class. The original version, in French, first opened in Paris at the Palais des Sports in 1980 and was an astounding success. Alain Boublil's lyrics must have lost something in the adaptation by Herbert Kretzmer and James Fenton. Here is an example:

> I am agog, I am aghast,
> Is Marius in love at last?

The production is beautifully designed by John Napier, who did the sets for *Nicholas Nickleby*, and it is well acted, with striking performances by Colm Wilkinson (as Jean Valjean), Alun Armstrong (as the greasy, thieving innkeeper, Thénardier, playing a role similar to his Squeers in *Nicholas Nickleby*) and Frances Ruffelle (as Eponine, Thénardier's daughter). Directors Trevor Nunn and John Caird have tried hard to repeat the success of the Royal Shakespeare Company's epic *Nicholas Nickleby*, but their production lacks *Nickleby*'s punch, even though it is less than a third as long. Had *Nickleby* been made into a musical instead of a play, it might well have suffered the same fate.

Les Misérables—for those who may not have read the book or gave up after the first 1,200 pages—concerns the life of Jean Valjean, an ex-con who goes straight and eventually becomes mayor of his town. Valjean has one important adversary, Inspector Javert (Roger Allam), a sinister reed of a fellow who is determined to clap him back in irons because he broke parole. Javert becomes Valjean's malevolent shadow and tracks him mercilessly over the years, thus providing one of the plot's few threads of suspense.

The subplot, and the part that drags, concerns the love affair between Valjean's adopted daughter, Cosette (Rebecca Caine), and Marius (Michael Ball), a rather dopey student with long blond hair, who is involved with an inept bunch of revolutionaries. Eponine, a doomed and lonely creature—her frailty belied by a belting disco voice—is also in love with Marius, who only has eyes for the vapid Cosette. The climax of the action is set against a citizen's uprising in 1832.

More of an operetta than a musical (there are no big dance numbers, apart from a wedding waltz), *Les Misérables* has a couple of good tunes plus a magnificent revolving set, which ends up in a huge pile to form a barricade across the stage. The show is due in New York City in the fall. It is certain to be a hit.

I wish we could get the National Theatre's *Pravda*, a play by Howard Brenton and David Hare, instead. *Pravda* is a hilarious satire about Fleet Street and what happens when one newspaper after another is bought up by a right-wing South African entrepreneur who manipulates them all to his own end. This will no doubt sound familiar to anyone who has followed the fate of *The Sun*, the *News of the World*, *The Times* and *The Sunday Times*.

Pravda is a provocative play of clockwork cunning, directed at a brisk pace by David Hare. Sir Stamford Foley (Michael Beint), the owner of a provincial newspaper, the *Leicester Bystander*, has sold out to Lambert Le Roux (Anthony Hopkins), the South African businessman, so that he can buy shares in a racehorse. "Le Roux is of impeccable liberal credentials," Sir Stamford reassures his shocked staff. "So he's black," replies Andrew May (Peter Chelsom), an idealistic young journalist, after a pause. "That's interesting."

Le Roux, who is in fact white, proceeds to take over the *Victory*, a national newspaper reminiscent of *The Times*, firing journalists whenever he appears in the newsroom. "Who wrote this article on Central America?" he asks, grinding a piece of paper to a pulp in his fist and holding the journalists at bay like a bulldog in front of a herd of antelopes. A nervous journalist raises his hand. "You're fired. No gringo should have to read this kind of stuff."

Andrew marries Rebecca (Phoebe Nicholls), Sir Stamford's daughter, and is appointed editor by Le Roux. Rebecca, who is the only incorruptible character in the play, acts as his conscience. When she produces a compromising government document, he must decide whether to publish it. But Le Roux shows up in the nick of time,

Moira Hodgson writes frequently on the arts.

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angry at having been interrupted over dinner "on the royal train," and fires Andrew.

"I provided the formula," Le Roux muses, his eyes trained on the distance, as though gazing across the veld:

> Page one, a nice picture of the Prime Minister. Page two, something about actors. Page three, gossip, the veld, what you call the countryside—a rail crash, if you're lucky. Four, high technology. Five, sex, sex crimes, court cases. A couple of filler pages; then it's editorials. Then letters. All pleasingly like-minded, all from Kent . . . then six pages of sport. Back page, a lot of weather and something nasty about the opposition. The only bit I hate is all those foreign correspondents. They're totally out of control. Even now I never look at their little half page.

Andrew is approached by other disgruntled journalists who have fallen under Le Roux's ax, and becomes editor of the independent *Usurper*. "I don't know why they don't have the manhood to shoot me," Le Roux wonders, referring to his departed editors. "They could get me from the street. A point 44 in the back of the neck. But what do they do? They publish books which are all remaindered in Foyles."

Andrew does attempt to take revenge when Eaton Sylvester (Richard Hope), Le Roux's smarmy Australian manager, pretends to betray his boss and feeds Andrew malicious lies about him. When Andrew, unaware that they are false, publishes these stories, against Rebecca's advice, he is destroyed.

Anthony Hopkins gives the best performance of his career as Le Roux, starting at such a high pitch you think he must come down but he never does. He is full of suppressed violence; fury escapes from him in wild spasms. He speaks with a rasping, guttural Afrikaans accent, his feet planted firmly on the ground and his body tilted forward like Hitler's. His eyes, which are very blue, look out into the audience with the chilling gaze of a shark.

The fear of terrorism, given such exaggerated play in the media this side of the Atlantic, has kept American theatergoers away from London this year, and it is now possible to get tickets with ease for most productions of both the Royal Shakespeare Company and the National Theatre. In addition to *Pravda* at the National Theatre, I also recommend *Dalliance*, Tom Stoppard's oddly moving adaptation of Arthur Schnitzler's 1895 play *Liebelei*. The play is a commentary on Viennese life at the turn of the century, where working-class popsies are invited to candlelit dinners at their consorts' homes on the servants' nights off, but not to their boxes at the opera. The men, who have the class and the money, are free to end such liaisons when they please. Christine (Brenda Blethyn), a humble music copyist, falls deeply in love with Fritz (Stephen Moore), who has the double liability of being both an ex-guardsman and a medical student—and is a chinless wonder to boot. But Fritz has been dallying with another man's wife, a woman of his own class, and is unmoved by Christine's breathless, eager devotion.

Peter Wood has staged the play like an Antony Tudor ballet: much is made of theatrical gesture. When a *dîner à quatre*, which includes Theodore (Tim Curry), a pudgy roué, and Mizi (Sally Dexter), a cheerful seamstress who has no illusions about her role, is interrupted by the doorbell, the women are ushered out back. The husband of Fritz's other amour appears like the angel of death, in a white greatcoat, and stands stock still, bringing a shiver into the room.

Two days later Fritz is killed in a duel. Christine hears of his death backstage at the Burgtheater, where her father is a pit musician. While a hussar and his grisette sing an ardent duet on the stage, she cries, "To me he was the God of Salvation; I was his day off." □

LAST EVENING

—after Rilke

And night and far to go—
For hours the convoys had rolled by
Like storm clouds in a troubled sky;
He'd gone on playing, though,

And raised his eyes to hers,
Which seemed a kind of mirror now,
So filled were they with his clenched brow,
And the pain to come, or worse;

And then the image blurred.
She stood at the window in the gloom
And looked back through the fading room—
Outside, a fresh wind stirred—

And noticed across a chair
The officer's jacket he had flung
Off casually there; and now it hung
Like a coat that scarecrows wear

And the bird-shadows flee and scatter from;
Or like the skin of some great battle-drum.

PURGATORY

"After so many years of pursuing the ideal,
I came home. But I had caught sight of it.
You see it sometimes in the blue-silver wake that follows
An island schooner, bound for Anegada, say.
And it takes other forms. I saw it flickering once
In torches by the railroad track in Medellín.
When I was very young I thought that love would come
And seize and take me south and I would see the rose;
And the great ambiguities would merge somehow
Like orchids on a word. Say this:
I sought the immortal word."

Donald Justice

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EVENTS.

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WEEKEND, JULY 11 TO 13

How Far Will the Rainbow Go? Discussions with Jack O'Dell, director, International Affairs, National Rainbow Coalition.

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Bring radios.

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"New Directions for Electoral Politics" with Sheila Collins, National Committee for Independent Political Action, and John Collins, co-director of Clergy & Laity Concerned. "Bucking the National Trend: Progressive Independent Politics in Vermont" with Ellen David Friedman, Rainbow Coalition and Bernie Sanders's campaign manager. "To Meet Human Needs," community organizing against budget cuts, with Henry Shelton and Carol Shelton.

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To RSVP or for more information, call (212) 686-4905.

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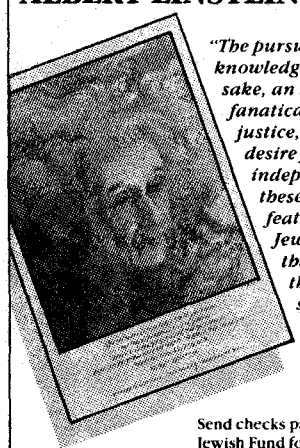

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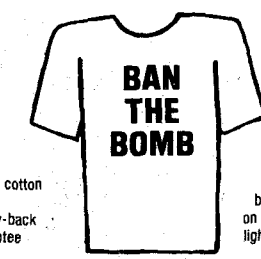

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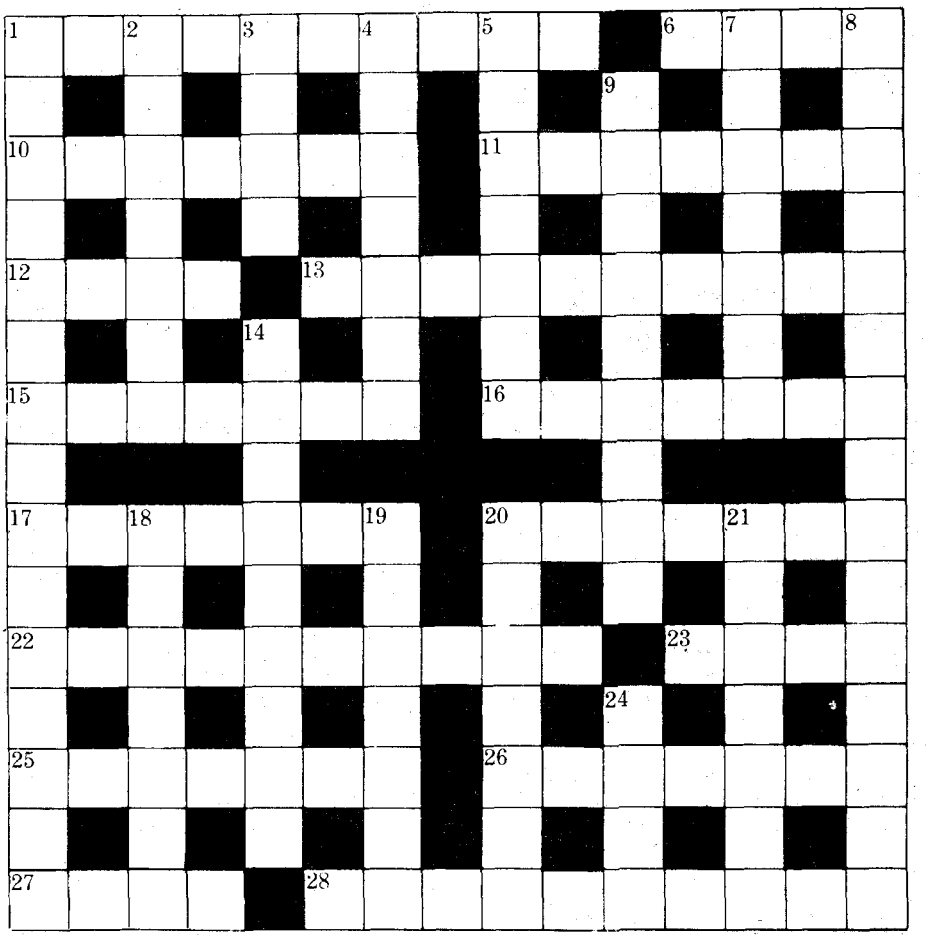

ACROSS

1 and 6 To form the food a different way—top to bottom? (4,4,2,4)
10 Thankful, if much this. (7)
11 See what breaks? Ice does! (7)
12 Possibly one of Schubert's didn't tell the truth. (4)
13 Reputedly you'll find plenty if you look in one. (10)
15 Sounds like a baseball team might be on the track. (7)
16 Possibly the rest get put inside, as a candle might. (7)
17 A wreck of a car—the air system in part, anyway! (7)
20 The range of falling water? (7)
22 Certain ore gets refined, but some have fun with it. (10)
23 A hot spot in Korea, by a lucky chance, might show it. (4)
25 Possibly a handy expression—like an old tale about the old city. (7)
26 One who studies in France has to get around at promotion time, if you do! (7)
27 and 28 Show dislike of what a retroussé effect might do. (4,2,4,4)

DOWN

1 Considering 1 across, a 90-degree turn will move you so, perhaps—leaving those remaining to attain what is correct. (4,4,2,5)
2 Instructions on how to keep your mitt in good shape might not pay off with the glut. (3,4)
3 Commonly drunk up—very much so. (4)
4 It's a dour make-up to you and me—which appears hard. (7)
5 Distinguished beginnings are confused by the message. (7)
7 A dollar bill commonly stays in the same place, evidently. (3,4)
8 Not Mab—rather Gloriana. (3,6,6)
9 Students might, when investigating material for study, making quite a gathering. (9)
14 Get the G.I.s out this way—it's morally justifiable. (9)
18 One cubic centimeter employed by him, obviously—perhaps a finger-pointer. (7)
19 Want pre-adjusted material? You'll find it in port. (7)
20 Fence, perhaps, being rather near the city? (5,2)
21 Indian responsible for a sharp blow on a hothead? (7)
24 The old wardens were 27 with these. (4)

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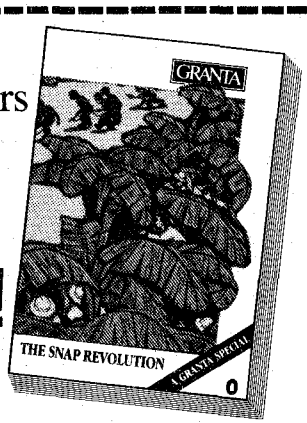

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